

***United States Court of Appeals  
for the  
District of Columbia Circuit***



**TRANSCRIPT OF  
RECORD**



34-7

16

No. 24,057

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UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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SINDICATO PUERTORRIQUENO DE  
TRABAJADORES, et al.,

Petitioners.

v.

JAMES D. HODGSON, SECRETARY  
OF LABOR, et al.,

Respondents.

---

ON PETITION TO REVIEW A MINIMUM WAGE ORDER  
ISSUED UNDER THE FAIR LABOR STANDARDS ACT

---

APPENDIX

---

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United States Court of Appeals  
for the District of Columbia Circuit

FILED DEC 14 1970

*Nathan J. Paulson*  
CLERK

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### CHRONOLOGICAL LIST

- November 1, 1969 - Publication of Administrative Order  
No. 610, 34 F.R. 17732, Appointing Industry Committee  
No. 89-A
- December 8, 1969 - Executive Session Meetings of Industry  
Committee No. 89-A
- December 8, 9, 10, 1969 - Public Hearings Held By Industry  
Committee No. 89-A
- December 10, 11, 1969 - Executive Session Meetings of  
Industry Committee No. 89-A
- December 12, 1969 - Publication of the Report, Findings of Fact  
and Recommendations of Industry Committee No. 89-A and  
Dissents Thereto.
- January 28, 1970 - Publication of the Secretary of Labor's  
Order Setting Minimum Wages of Employees of Puerto Rico's  
General Agricultural Industry, 35 F.R. 1105
- March 23, 1970 - Filing of the Petition to Review in the Instant  
Case

(c) The Secretary shall cause prompt publication of the findings and ordering paragraph, together with notice of the availability of this entire Opinion, to be made in the Federal Register.

(d) The Examiner's opinion to the extent not inconsistent herewith is adopted as a part of our Opinions No. 568 and 569 A in this proceeding.

Copies of the complete text of Opinion No. 568-A may be obtained in person from the Office of Public Information of the Federal Power Commission, or by written request addressed to the Secretary, Federal Power Commission, 441 G Street NW., Washington, D.C. 20426.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-1061; Filed, Jan. 27, 1970;  
8:49 a.m.]

## Title 29—LABOR

### Chapter V—Wage and Hour Division, Department of Labor

#### PART 727—AGRICULTURE INDUSTRY IN PUERTO RICO

##### Wage Rates

Pursuant to sections 5 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-1953 comp., p. 1004), and by means of Administrative Order No. 610 (34 F.R. 17732), the Secretary of Labor appointed and convened Industry Committee No. 89-A for the general agriculture industry in Puerto Rico, referred to the committee the question of the minimum wage rate or rates to be paid under section 6 of the Act to employees in its industry, and gave notice of a hearing to be held by the committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the committee has filed with the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 89-A are hereby published in this order amending 29 CFR Part 727, effective February 13, 1970, as set forth below.

1. Section 727.1 of Title 29, Code of Federal Regulations, is revised to read as follows:

##### § 727.1 Definition.

The General Agriculture Industry in Puerto Rico is defined as follows: Farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur bearing animals, or poultry, and any practices performed by a

farmer or on a farm as an incident to or in conjunction with such farming operations, including the preparation for market, delivery to storage or to market or to the carriers for transportation to market: *Provided, however,* that the general agriculture industry shall not include any activities included in the sugarcane industry in Puerto Rico as defined in Administrative Order 610 (34 F.R. 17732), the food and related products industry in Puerto Rico (29 CFR Part 673), the sugar manufacturing industry in Puerto Rico (29 CFR Part 689), the tobacco industry in Puerto Rico (29 CFR Part 657), and the communications, utilities, and transportation industry in Puerto Rico (29 CFR Part 671): *And provided further,* that the industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

2. Section 727.2 of Title 29, Code of Federal Regulations, is revised to read as follows:

##### § 727.2 Wage rates.

Wages at rates not less than those prescribed in this section shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees who in any workweek is engaged in an activity in any of the following classifications of the agriculture industry in Puerto Rico, which was brought within the purview of section 6 of the Act by the Fair Labor Standards Amendments of 1966.

(a) *Dairy farms, drivers, and arts and crafts workers classification.* (1) The minimum wage for this classification is \$1.10 an hour.

(2) This classification is defined as all activities in the production, handling, packing, bottling, and storage of milk, and in the breeding of bovine cattle for the production of milk performed by drivers of motor vehicles other than tractors; and by arts and crafts workers who practice, carry out or accomplish any art or craft which requires mechanical or manual skill, including, but without limitation, cabinetmakers, electricians, painters, mechanics, masons, carpenters, or plumbers.

(b) *Dairy farms, tractor operators classification.* (1) The minimum wage for this classification is \$1.05 an hour.

(2) This classification is defined as all activities in the production, handling, packing, bottling, and storage of milk, and in the breeding of bovine cattle for the production of milk, by tractor operators who condition and operate tractors to haul heavy agricultural machinery such as plows, cultivators, rakes, etc., and may operate a small tractor (wheeled tractor) commonly known in Puerto Rico as mosquito to haul light agricultural machinery used in the dairy farms or to pull dump wagons, mow grass, sink holes, etc.

(c) *Dairy farms, other workers classification.* (1) The minimum wage for this classification is \$0.76 an hour.

(2) This classification is defined as all activities on dairy farms in Puerto Rico

other than activities included in the dairy farms, drivers and tractor operators classification and other workers classification.

(d) *Cattle classification.* (1) The minimum wage for this classification is \$0.90 an hour.

(2) This classification is defined as the breeding and raising of cattle for meat.

(e) *Pineapple farms, drivers, tractor operators or operators of any other agricultural motor machinery, arts and crafts workers, and any other similar occupation classification.* (1) The minimum wage for this classification is \$0.95 an hour.

(2) This classification is defined as all activities on farms engaged in the sowing, cultivation, harvesting, packing, sale, and delivery of pineapple to a warehouse or market, performed by drivers of motor vehicles; tractor operators who condition and operate tractors; arts and crafts workers who practice, carry out or accomplish any art or craft which requires mechanical or manual skill, including, but without limitation, cabinetmakers, electricians, painters, mechanics, masons, carpenters, or plumbers; and any other similar occupation.

(f) *Pineapple farms, other workers classification.* (1) The minimum wage for this classification is \$0.68 an hour.

(2) This classification is defined as all other activities on pineapple farms in Puerto Rico other than activities included in pineapple farms, driver, tractor operator, or operator of any other agricultural motor machinery, arts and crafts workers, and any other similar occupation classification.

(g) *Tomatoes, peppers, aviculture and floriculture classification.* (1) The minimum wage for this classification is \$0.65 an hour.

(2) This classification is defined as the planting, cultivating, harvesting and marketing of tomatoes and peppers; the care of poultry for the production of meat or eggs, and for the production and rearing of baby chicks, game cocks, or any other birds; and the sowing, cultivation and production of flowers and plants, trees, and grass used for ornamental purposes.

(h) *Tobacco, coffee, and other agricultural activities classification.* (1) The minimum wage for this classification is \$0.58 an hour.

(2) This classification is defined as the planting, replanting, and cultivating of coffee trees (including the preparation of the soil), the harvesting of coffee, the removal of the pulp from the coffee bean, the washing, drying, hulling, and packing of the bean, and the conditioning of shade trees cultivated in connection therewith; the preparation of the soil, the planting, transplanting, cultivating, harvesting, sowing, drying, packing, preparation, and delivery of tobacco; and all other work in the general agriculture industry in Puerto Rico other than work included in any other classification of this industry.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064 as amended; 29 U.S.C. 205, 206, 208)



Signed at Washington, D.C., this 22d day of January 1970.

ROBERT D. MORAN,  
Administrator, Wepe and Hearst  
and Public Contracts Dis-  
tensions, United States Depart-  
ment of Labor.

[P.R. Doc. 70-1674; Filed, Jan. 27, 1970;  
8:43 a.m.]

## Title 47—TELECOMMUNICATIONS

### Chapter I—Federal Communications Commission

[Docket No. 18125; FCC 70-95]

#### PART 73—RADIO BROADCAST SERVICES

##### FM Broadcast Stations; Table of Assignments, Concord, N.H.

In the matter of amendment of § 73.202 Table of Assignments, FM Broadcast Stations, (Camden, S.C.; Drinkley, Ark.; Concord, N.H.; Pontiac, Ill.; DuQuoin, Ill.; Glasgow, Ky.; Norman and Duncan, Okla.; Glendive, Mont.; Brandon and Sarasota, Fla.; Columbia, S.C.; Lynchburg, Va.; Upper Sandusky and Galion, Ohio; and Altavista, Va.) RM-1254, RM-1258, RM-1257, RM-1262, RM-1261, RM-1249, RM-1263, RM-1264, RM-1265, RM-1269, RM-1255, RM-1268, RM-1282.

**Third Report and Order.** 1. The Commission has before it for consideration its further notice of proposed rule making issued on October 3, 1969 (FCC 69-1069, 34 P.R. 15602), and comments filed in response thereto.

2. The further notice proposed to delete an unoccupied channel, 296A, at Portsmouth, N.H., and reassign it to Concord, capital of New Hampshire, as that city's first FM assignment. Comments were filed in response to the further notice by Capitol Broadcasting Corp., licensee of Station WKXL(AM), Concord, the petitioner (RM-1261) in the original institution of a rule making proceeding looking toward an FM assignment at Concord. Capitol urges that Channel 296A not be assigned to Concord so that it will remain available for assignment to Exeter, N.H., and requests that we reconsider its earlier proposal to assign Channel 232A to Concord by moving it from Biddeford, Maine, and substitute Channel 221A therefor at the latter place. As a second alternative, Capitol suggests that Channel 272A be reassigned from Newport, N.H., where it is presently unoccupied.

3. Comments were also filed by Lakes Region Broadcasting Corp., Inc., which supports the assignment of an FM channel to Concord, although claiming that it has no interest in applying for such as-

<sup>1</sup> A petition was filed Nov. 6, 1969, subsequent to the further notice of proposed rule making in this proceeding, by Coastal Broadcasting Co., Inc., licensee of Station WKXR (AM), Exeter, N.H., requesting assignment of Channel 296A to Exeter by deleting it from Portsmouth, N.H. It is observed that the two petitioning corporations seeking the Concord and Exeter FM assignments have a common president.

ignment if adopted. As was observed in the further notice, Lakes Region in its other pending petition, 174-1861, and in other proposals, had urged assignment of Channel 232A to Concord, which is now listed for Biddeford, Maine. We there stated that we were not entertaining Lakes Region's proposal in this proceeding because the proposed substitution of Channel 257A at Biddeford would involve an undesirable site restriction. This conclusion is questioned by Lakes Region, since the factors considered in arriving at this decision were not stated. It contends that its proposal would better serve the public interest, since it would not involve deletion of an assignment without a replacement, compared to our plan to remove a vacant assignment from Portsmouth without a replacement. Our decision was reached because, according to the proponent's own engineering exhibits, a site meeting all spacing requirements for Channel 257A at Biddeford would need to be located in a limited "open area" extending from about 2 to 5 miles southwest of the city. In the interest of providing the maximum latitude in the selection of optimum transmitter sites by future applicants, we avoid, whenever possible, making changes in assignments with attending site restrictions when other alternatives without such restrictions appear technically feasible. This is particularly true when a restriction develops in one community solely as a result of providing an assignment to another community. We still see no need to consider this particular proposal further in light of the decision reached herein below, which also will involve a site restriction, but to a lesser extent for the city benefiting from the assignment and with the full concurrence of the principal petitioner herein.

4. As to Capitol's request for further consideration of its proposal that Channel 232A be assigned to Concord by substituting 221A at Biddeford, we stated in the further notice that we were reluctant to consider Channel 221A as a replacement because of its potential preclusion impact on the top three educational channels (218, 219, and 220) in the area. We have avoided making Channel 221A assignments unless it can be shown that such impact would be minimal. In response, the petitioner points out that a 10-watt station operates on Channel 218 at Lewiston, N.H., a class A station at Orono, Maine, on Channel 220, and claims therefore that assignment of Channel 221A at Biddeford would not further disrupt potential educational allocations in the area. However, this conclusion is not supported by a technical showing, nor do we feel that it could be so demonstrated if all relevant factors were taken into consideration.

5. Petitioner's suggested alternative plan to shift Channel 272A from Newport appears to warrant serious consid-

<sup>2</sup> Lakes Region's Concord proposal is not technically related to its primary objective of obtaining an FM channel for Plymouth, N.H., nor is the Plymouth proposal contingent on any of the other plans considered herein for Concord.

eration. It is shown that the channel will meet all spacing requirements at Concord, providing a site were utilized just northwest of the city. As a matter of fact, Capitol submits that its proposed site for serving Concord would satisfy all spacing requirements on Channel 272A. A substitute channel for Newport is suggested by Capitol. However, it appears that Channel 235A could be assigned at Newport without conflict with any of the technical requirements of the rules.<sup>3</sup> Such a plan would permit a new assignment to Concord without the loss of an existing assignment or undue restriction on the selection of transmitter sites for any other community.

6. As we stated in the further notice, we are of the opinion that Concord, an important city of significant population (28,991 in 1960), serving as its State capital and being presently limited to a single AM aural outlet, warrants a first FM assignment. After carefully considering each of the plans before us for achieving this objective, we conclude that shifting the vacant channel (272A) from Newport to Concord and substituting another channel (235A) therefor at Newport will result in the minimum disruption to the existing FM assignment structure in the area. Although the assignment at Concord would require a site about 1 mile northwest of the center of Concord, the petitioner, the only party indicating an interest in applying for the channel if adopted, states that it would be fully compatible with the site it would propose. There would appear to be no similar restriction on the replacement channel selected for Newport. We are therefore adopting the latter plan.

7. Authority for the adoption of the amendments adopted herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

8. In view of the foregoing, it is ordered, That effective March 2, 1970, § 73.202 of the Commission's rules, the FM Table of Assignments, is amended to read, with respect to the communities listed below, as follows:

City	Channel No.
New Hampshire:	
Concord	272A
Newport	235A

9. It is further ordered, That this proceeding—Docket No. 18125—is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1036, 1082, 1093; 47 U.S.C. 154, 303, 307)

Adopted: January 21, 1970.

Released: January 23, 1970.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Secretary.

[P.R. Doc. 70-1043; Filed, Jan. 27, 1970;  
8:47 a.m.]

<sup>3</sup> By letter dated Dec. 10, 1969, the Canadian Government stated that it had no objections to these amendments which would modify Table B of the Working Arrangement under the Canadian-U.S.A. FM Agreement of 1947.



(c) The Secretary shall cause prompt publication of the findings and ordering paragraphs, together with notice of the availability of this entire Opinion, to be made in the *FEDERAL REGISTER*.

(d) The Examiner's opinion to the extent not inconsistent herewith is adopted as a part of our Opinions No. 568 and 569-A in this proceeding.

Copies of the complete text of Opinion No. 568-A may be obtained in person from the Office of Public Information of the Federal Power Commission, or by written request addressed to the Secretary, Federal Power Commission, 441 G Street NW., Washington, D.C. 20426.

GORDON M. GRANT,  
Secretary.

[P.R. Doc. 70-1061; Filed, Jan. 27, 1970;  
8:49 a.m.]

## Title 29—LABOR

### Chapter V—Wage and Hour Division, Department of Labor

#### PART 727—AGRICULTURE INDUSTRY IN PUERTO RICO

##### Wage Rates

Pursuant to sections 5 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-1953 comp., p. 1004), and by means of Administrative Order No. 610 (34 F.R. 17732), the Secretary of Labor appointed and convened Industry Committee No. 89-A for the general agriculture industry in Puerto Rico, referred to the committee the question of the minimum wage rate or rates to be paid under section 6 of the Act to employees in its industry, and gave notice of a hearing to be held by the committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the committee has filed with the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and requested by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 89-A are hereby published in this order amending 29 CFR Part 727, effective February 13, 1970, as set forth below.

1. Section 727.1 of Title 29, Code of Federal Regulations, is revised to read as follows:

##### § 727.1 Definition.

The General Agriculture Industry in Puerto Rico is defined as follows: Farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur bearing animals, or poultry, and any practices performed by a

farmer or on a farm as an incident to or in conjunction with such farming operations, including the preparation for market, delivery to storage or to market or to the carriers for transportation to market: *Provided, however,* That the general agriculture industry shall not include any activities included in the sugarcane industry in Puerto Rico as defined in Administrative Order 610 (34 F.R. 17732), the food and related products industry in Puerto Rico (29 CFR Part 673), the sugar manufacturing industry in Puerto Rico (29 CFR Part 689), the tobacco industry in Puerto Rico (29 CFR Part 657), and the communications, utilities, and transportation industry in Puerto Rico (29 CFR Part 671): *And provided further,* That the industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

2. Section 727.2 of Title 29, Code of Federal Regulations, is revised to read as follows:

##### § 727.2 Wage rates.

Wages at rates not less than those prescribed in this section shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees who in any workweek is engaged in an activity in any of the following classifications of the agriculture industry in Puerto Rico, which was brought within the purview of section 6 of the Act by the Fair Labor Standards Amendments of 1966.

(a) *Dairy farms, drivers, and arts and crafts workers classification.* (1) The minimum wage for this classification is \$1.10 an hour.

(2) This classification is defined as all activities in the production, handling, packing, bottling, and storage of milk, and in the breeding of bovine cattle for the production of milk performed by drivers of motor vehicles other than tractors; and by arts and crafts workers who practice, carry out or accomplish any art or craft which requires mechanical or manual skill, including, but without limitation, cabinetmakers, electricians, painters, mechanics, masons, carpenters, or plumbers.

(b) *Dairy farms, tractor operators classification.* (1) The minimum wage for this classification is \$1.05 an hour.

(2) This classification is defined as all activities in the production, handling, packing, bottling, and storage of milk, and in the breeding of bovine cattle for the production of milk, by tractor operators who condition and operate tractors to haul heavy agricultural machinery such as plows, cultivators, rakes, etc., and may operate a small tractor (wheeled tractor) commonly known in Puerto Rico as mosquito to haul light agricultural machinery used in the dairy farms or to pull dump wagons, mow grass, sink holes, etc.

(c) *Dairy farms, other workers classification.* (1) The minimum wage for this classification is \$0.76 an hour.

(2) This classification is defined as all activities on dairy farms in Puerto Rico

other than activities included in the dairy farms, drivers and tractor operators classification and dairy farm tractor operators classification.

(d) *Cattle classification.* (1) The minimum wage for this classification is \$0.70 an hour.

(2) This classification is defined as all breeding and raising of cattle for meat.

(e) *Pineapple farms, drivers, tractor operators or operators of any other agricultural motor machinery, arts and crafts workers, and any other similar occupation classification.* (1) The minimum wage for this classification is \$0.95 an hour.

(2) This classification is defined as all activities on farms engaged in the sowing, cultivation, harvesting, packing, sale, and delivery of pineapple to a warehouse or market, performed by drivers of motor vehicles; tractor operators who condition and operate tractors; arts and crafts workers who practice, carry out or accomplish any art or craft which requires mechanical or manual skill, including, but without limitation, cabinetmakers, electricians, painters, mechanics, masons, carpenters, or plumbers; and any other similar occupation.

(f) *Pineapple farms, other workers classification.* (1) The minimum wage for this classification is \$0.68 an hour.

(2) This classification is defined as all other activities on pineapple farms in Puerto Rico other than activities included in pineapple farms, driver, tractor operator, or operator of any other agricultural motor machinery, arts and crafts workers, and any other similar occupation classification.

(g) *Tomatoes, peppers, aviculture and floriculture classification.* (1) The minimum wage for this classification is \$0.65 an hour.

(2) This classification is defined as the planting, cultivating, harvesting and marketing of tomatoes and peppers; the care of poultry for the production of meat or eggs, and for the production and rearing of baby chicks, game cocks, or any other birds; and the sowing, cultivation and production of flowers and plants, trees, and grass used for ornamental purposes.

(h) *Tobacco, coffee, and other agricultural activities classification.* (1) The minimum wage for this classification is \$0.58 an hour.

(2) This classification is defined as the planting, replanting, and cultivating of coffee trees (including the preparation of the soil), the harvesting of coffee, the removal of the pulp from the coffee bean, the washing, drying, hulling, and packing of the bean, and the conditioning of shade trees cultivated in connection therewith; the preparation of the soil, the planting, transplanting, cultivating, harvesting, sowing, drying, packing, preparation, and delivery of tobacco; and all other work in the general agriculture industry in Puerto Rico other than work included in any other classification of this industry.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064 as amended; 29 U.S.C. 205, 206, 208)



Signed at Washington, D.C., this 22d day of January 1970.

ROBERT D. MORAN,  
Administrator, Wave and Radio  
and Public Contracts Divisions,  
United States Department of Labor.

[F.R. Doc. 70-1043; Filed, Jan. 27, 1970;  
8:48 a.m.]

## Title 47—TELECOMMUNICATIONS

### Chapter I—Federal Communications Commission

[Docket No. 18125; FCC 70-95]

#### PART 73—RADIO BROADCAST SERVICES

##### FM Broadcast Stations; Table of Assignments, Concord, N.H.

In the matter of amendment of § 73.202 Table of Assignments, FM Broadcast Stations, (Camden, S.C.; Brinkley, Ark.; Concord, N.H.; Pontiac, Ill.; DuQuoin, Ill.; Glasgow, Ky.; Norman and Duncan, Okla.; Glendive, Mont.; Brandon and Sarasota, Fla.; Columbia, S.C.; Lynchburg, Va.; Upper Sandusky and Gallon, Ohio; and Altavista, Va.) RM-1254, RM-1258, RM-1257, RM-1262, RM-1261, RM-1249, RM-1263, RM-1264, RM-1265, RM-1269, RM-1255, RM-1268, RM-1282.

**Third Report and Order.** 1. The Commission has before it for consideration its further notice of proposed rule making issued on October 3, 1969 (FCC 69-1069, 34 F.R. 15602), and comments filed in response thereto.

2. The further notice proposed to delete an unoccupied channel, 296A, at Portsmouth, N.H., and reassign it to Concord, capital of New Hampshire, as that city's first FM assignment. Comments were filed in response to the further notice by Capitol Broadcasting Corp., licensee of Station WKXX (AM), Concord, the petitioner (RM-1261) in the original institution of a rule making proceeding looking toward an FM assignment at Concord. Capitol urges that Channel 296A not be assigned to Concord so that it will remain available for assignment to Exeter, N.H., and requests that we reconsider its earlier proposal to assign Channel 232A to Concord by moving it from Biddeford, Maine, and substitute Channel 221A therefor at the latter place. As a second alternative, Capitol suggests that Channel 272A be reassigned from Newport, N.H., where it is presently unoccupied.

3. Comments were also filed by Lakes Region Broadcasting Corp., Inc., which supports the assignment of an FM channel to Concord, although claiming that it has no interest in applying for such as-

<sup>1</sup> A petition was filed Nov. 6, 1969, subsequent to the further notice of proposed rule making in this proceeding, by Coastal Broadcasting Co., Inc., licensee of Station WKXR (AM), Exeter, N.H., requesting assignment of Channel 296A to Exeter by deleting it from Portsmouth, N.H. It is observed that the two petitioning corporations seeking the Concord and Exeter FM assignments have a common president.

ignment if adopted. As was observed in the further notice, Lakes Region in its other pending petition, 1967-1968, and other proposals, had urged assignment of Channel 232A to Concord, which is now listed for Biddeford, Maine.<sup>2</sup> We there stated that we were not entertaining Lakes Region's proposal in this proceeding because the proposed substitution of Channel 237A at Biddeford would involve an undesirable site restriction. This conclusion is questioned by Lakes Region, since the factors considered in arriving at this decision were not stated. It contends that its proposal would better serve the public interest, since it would not involve deletion of an assignment without a replacement, compared to our plan to remove a vacant assignment from Portsmouth without a replacement. Our decision was reached because, according to the proponent's own engineering exhibits, a site meeting all spacing requirements for Channel 237A at Biddeford would need to be located in a limited "open area" extending from about 2 to 5 miles southwest of the city. In the interest of providing the maximum latitude in the selection of optimum transmitter sites by future applicants, we avoid, whenever possible, making changes in assignments with attending site restrictions when other alternatives without such restrictions appear technically feasible. This is particularly true when a restriction develops in one community solely as a result of providing an assignment to another community. We still see no need to consider this particular proposal further in light of the decision reached herein below, which also will involve a site restriction, but to a lesser extent for the city benefiting from the assignment and with the full concurrence of the principal petitioner herein.

4. As to Capitol's request for further consideration of its proposal that Channel 232A be assigned to Concord by substituting 221A at Biddeford, we stated in the further notice that we were reluctant to consider Channel 221A as a replacement because of its potential preclusion impact on the top three educational channels (218, 219, and 220) in the area. We have avoided making Channel 221A assignments unless it can be shown that such impact would be minimal. In response, the petitioner points out that a 10-watt station operates on Channel 218 at Lewiston, N.H., a class A station at Orono, Maine, on Channel 220, and claims therefore that assignment of Channel 221A at Biddeford would not further disrupt potential educational allocations in the area. However, this conclusion is not supported by a technical showing, nor do we feel that it could be so demonstrated if all relevant factors were taken into consideration.

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<sup>2</sup> Lakes Region's Concord proposal is not technically related to its primary objective of obtaining an FM channel for Plymouth, N.H., nor is the Plymouth proposal contingent on any of the other plans considered herein for Concord.

eration. It is shown that the channel will meet all spacing requirements at Concord, providing a site close to the just northwest of the city. As a matter of fact, Capitol submits that its proposed site for serving Concord would satisfy all spacing requirements on Channel 272A. A substitute channel for Newport is not suggested by Capitol. However, it appears that Channel 235A could be assigned at Newport without conflict with any of the technical requirements of the rules.<sup>3</sup> Such a plan would permit a new assignment to Concord without the loss of an existing assignment or undue restriction on the selection of transmitter sites for any other community.

6. As we stated in the further notice, we are of the opinion that Concord, an important city of significant population (28,991 in 1960), serving as its State capital and being presently limited to a single AM aural outlet, warrants a first FM assignment. After carefully considering each of the plans before us for achieving this objective, we conclude that shifting the vacant channel (272A) from Newport to Concord and substituting another channel (235A) therefor at Newport will result in the minimum disruption to the existing FM assignment structure in the area. Although the assignment at Concord would require a site about 1 mile northwest of the center of Concord, the petitioner, the only party indicating an interest in applying for the channel if adopted, states that it would be fully compatible with the site it would propose. There would appear to be no similar restriction on the replacement channel selected for Newport. We are therefore adopting the latter plan.

7. Authority for the adoption of the amendments adopted herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

8. In view of the foregoing, it is ordered, That effective March 2, 1970, § 73.202 of the Commission's rules, the FM Table of Assignments, is amended to read, with respect to the communities listed below, as follows:

City	Channel No.
New Hampshire:	
Concord	272A
Newport	235A

9. It is further ordered, That this proceeding—Docket No. 18125—is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1036, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: January 21, 1970.

Released: January 23, 1970.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 70-1043; Filed, Jan. 27, 1970;  
8:47 a.m.]

<sup>3</sup> By letter dated Dec. 10, 1969, the Canadian Government stated that it had no objections to these amendments which would modify Table B of the Working Arrangement under the Canadian-U.S.A. FM Agreement of 1947.

UNITED STATES DEPARTMENT OF LABOR  
WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS  
WASHINGTON, D. C. 20210

REPORT, FINDINGS OF FACT, AND RECOMMENDATIONS OF  
INDUSTRY COMMITTEE NO. 89-A FOR THE GENERAL  
AGRICULTURE INDUSTRY IN PUERTO RICO

Industry Committee No. 89-A reports that it has completed its investigation of conditions in the General Agriculture Industry in Puerto Rico and hereby submits the following report containing its findings of fact and recommendations.

In conformity with Administrative Order No. 610, published in the Federal Register on November 1, 1969 (34 FR 17732), the Committee met in executive session on December 2, 1969, and later that day commenced a public hearing which continued on December 9 and 10, 1969. The aforesaid order directs the Committee to recommend the <sup>highest</sup> minimum wage rate or rates for this industry, not exceeding the minimum wage rate of \$1.30 an hour, for work brought within the purview of section 6 of the Act by the Fair Labor Standards Amendments of 1966, in accordance with and having due regard to the statutory criteria. The Committee took official notice of the economic report entitled "The General Agriculture Industry in Puerto Rico," dated September 1969, and other supplementary data relating thereto, prepared by the Branch of Industry Committees, Wage and Hour and Public Contracts Divisions, U. S. Department of Labor. All interested persons were afforded an opportunity to appear before the Committee. Also the Commonwealth Secretary of Agriculture, the Assistant Secretary of Labor, the Chairman of the Minimum Wage Board of Puerto Rico, and other Commonwealth government officials ~~who~~ were invited by the Committee to explain Acts Nos. 141 and 142 of Puerto Rico dated June 29, 1969, providing for agricultural income supplements.

The hearing was conducted in accordance with the procedure provided for in the Administrative Procedure Act (60 Stat. 237, as amended by P.L. 89-554,



September 5, 1956, 5 USC 101 et seq.), Regulations Part 511, Wage Order Procedure for Puerto Rico, the Virgin Islands, and American Samoa (29 CFR Part 511), and the Notice of Hearing (Administrative Order No. 610, 34 FR 17732).

The Committee, in executive session on December 10 and 11, 1969, fully considered the evidence adduced at the hearing, included that officially noticed, and the proposals of the parties and witnesses appearing at the hearing. The Committee considered competitive conditions as affected by transportation, living, and production costs, and the Committee gave consideration to the wages established for work of like or comparable character by employers who voluntarily maintain wage standards in the industry. Having found that further investigation is not necessary, the Committee, upon the entire record, makes the following findings of fact and recommendations:

FINDINGS OF FACT

The General Agriculture Industry in Puerto Rico is defined as follows:

Farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur bearing animals, or poultry, and any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including the preparation for market, delivery to storage or to market or to the carriers for transportation to market; Provided, however, That the general agriculture industry shall not include any activities included in the sugarcane industry in Puerto Rico as defined in Administrative Order 610, the food and related products industry in Puerto Rico (29 CFR Part 573), the sugar manufacturing industry in Puerto Rico (29 CFR Part 609), the tobacco industry in Puerto Rico (29 CFR Part 657), and the communications, utilities, and transportation industry in Puerto Rico (29 CFR Part 671): And provided, further, That the industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

The definition is basically the same as that for the Agriculture Industry in Puerto Rico contained in the currently effective wage order, except that

sugarcane has been excluded. Some minor revisions have also been made in the definition, but these changes do not alter in any way the coverage of the industry, with the exception of excluding sugarcane.

Current minimum hourly wage rates established under the Fair Labor Standards Act (FLSA) for the General Agriculture Industry in Puerto Rico and effective February 1, 1969, are as follows:

<u>Classification</u>	<u>Minimum hourly rate</u>
Coffee	\$0.53
Tobacco	.52
Dairy farms	.70
Pineapple	.65
Tomatoes, peppers, aviculture and floriculture	.62
Cattle and other agricultural activities	.55

On the basis of the evidence adduced at the hearing, the Committee finds that it is reasonable and necessary to establish separate classifications in the General Agriculture Industry in Puerto Rico, as defined herein, for the purpose of fixing for each classification the highest minimum wage rate (not in excess of \$1.30 an hour, provided in section 6(a)(5) of the Fair Labor Standards Act of 1938, as amended [29 USC 206(a)(5)], that will not substantially curtail employment in such classifications and will not give a competitive advantage to any group in the industry.

It is the intention of the Committee to follow the occupational definitions for workers on dairy farms and pineapple farms reflected in the mandatory decrees of the Commonwealth of Puerto Rico.

The classifications are entitled and defined as follows:



Dairy farms, drivers and arts and crafts workers classification

This classification is defined as all activities in the production, handling, packing, bottling, and storage of milk, and in the breeding of bovine cattle for the production of milk performed by drivers of motor vehicles other than tractors; and by arts and crafts workers who practice, carry out or accomplish any art or craft which requires mechanical or manual skill, including, but without limitation, cabinetmakers, electricians, painters, mechanics, masons, carpenters, or plumbers.

Dairy farms, tractor operators classification

This classification is defined as all activities in the production, handling, packing, bottling, and storage of milk, and in the breeding of bovine cattle for the production of milk, by tractor operators who condition and operate tractors to haul heavy agricultural machinery such as plows, cultivators, rakes, etc., and may operate a small tractor (wheeled tractor) commonly known in Puerto Rico as mosquito to haul light agricultural machinery used in the dairy farms or to pull dump wagons, mow grass, sink holes, etc.

Dairy farms, other workers classification

This classification is defined as all activities on dairy farms in Puerto Rico other than activities included in dairy farms, drivers and arts and craft workers classification and dairy farms, tractor operators classification.

Cattle classification

This classification is defined as the breeding and raising of cattle for meat.

Pineapple farms, driver, tractor operator or operators of any other agricultural motor machinery, arts and crafts workers, and any other similar occupation classification

This classification is defined as all activities on farms engaged in the sowing, cultivation, harvesting, packing, sale, and delivery of pineapple to a warehouse or market, performed by drivers of motor vehicles; tractor operators who condition and operate tractors; arts and crafts workers who practice, carry out or accomplish any art or craft which requires mechanical or manual skill, including, but without limitation, cabinetmakers, electricians, painters, mechanics, masons, carpenters, or plumbers; and any other similar occupation.

Pineapple farms, other workers classification

This classification is defined as all other activities on pineapple farms in Puerto Rico other than activities included in pineapple farms, driver, tractor operator, or operator of any other agricultural motor machinery, arts and crafts worker, and any other similar occupation classification.

Tomatoes, peppers, aviculture and floriculture classification

This classification is defined as the planting, cultivating, harvesting and marketing of tomatoes and peppers; the care of poultry for the production of meat or eggs, and for the production and rearing of baby chicks, game cocks, or any other birds; and the sowing, cultivation and production of flowers and plants, trees, and grass used for ornamental purposes.

Tobacco, coffee, and other agricultural activities classification

This classification is defined as the planting, replanting, and cultivating of coffee trees (including the preparation of the soil), the harvesting of coffee, the removal of the pulp from the coffee bean, the washing, drying

hulling and packing of the bean, and the conditioning of shade trees cultivated in connection therewith; the preparation of the soil, the planting, transplanting, cultivating, harvesting, sowing, drying, packing, preparation, and delivery of tobacco; and all other work in the general agriculture industry in Puerto Rico other than work included in any other classification of this industry.

In 1967, 1,785,000 acres of land were devoted to agriculture in Puerto Rico. Of this, approximately 35 percent was used as cropland, 44 percent as pasture, 17 percent was in forest and brush, and 4 percent in other uses.

Traditionally, sugarcane, coffee, and tobacco formed the mainstay of Puerto Rico's agriculture. During <sup>crop year 1967-</sup> fiscal 1968, the traditional money crops of sugarcane, coffee, and tobacco accounted for 35 percent of the total farm value of agricultural commodities, which in crop year 1967<sup>LS</sup> amounted to \$95.0 million out of a total of \$269.1 million.

During fiscal 1968-69, these three crops accounted for 28 percent of the farm value of agricultural commodities, which amounted to \$72.7 million, out of a total of \$259.0 million. The decrease in shipments is largely due to the decline in the production and shipment of raw sugar.

The island's general economic progress and rising standard of living have greatly increased the demand for all livestock products. The value of livestock products increased during the <sup>5</sup> years, rising by 20 percent from almost \$103.9 million in 1964-65 to \$124.9 million in 1968-69. The production of milk in 1966-69 amounted to nearly 385.4 million quarts with a farm value of \$69.3 million, or nearly 27 percent of the total farm value of agricultural commodities. Egg production has shown a consistently upward trend, reaching a level of 21.2 million dozens in 1968-69, with a farm value of nearly \$12.3 million.

Coffee is the second most important money crop in Puerto Rico and most of the coffee grown in Puerto Rico is consumed locally. The area harvested has remained constant at above 150,000 cuerdas for over 15 years. Average yearly employment was 18,000 in 1968 compared with 20,000 in 1967 and 18,000 in 1966. In 1967-68 the production of coffee totaled 325,000 hundredweights, compared with 260,000 hundredweights in 1966-69.

The tobacco grown in Puerto Rico is used exclusively as cigar filler. In recent years, the amount of land in tobacco has dropped off sharply. In 1967-68 production amounted to 112,000 hundredweights and in 1968-69 was 80,000 hundredweights. The farm value of production has had a corresponding loss.

Pineapples are the most important of the fruit crops. Production on a commercial scale is a relatively recent development on the island and most of the pineapple crop is shipped fresh to the U. S. mainland. Between 1961-62 and 1964-65, production increased from 57 thousand tons to 80 thousand tons with a farm value of \$2.5 million and \$3.9 million respectively. Although there was a substantial gain in output in this 4-year period, the upward trend was interrupted. The quantity of production steadily declined with production in 1966-69 amounting to 55 thousand tons with a farm value of \$3.0 million. The output of most other field crops in Puerto Rico has shown a general tendency to decline or remain stable in the past 5 years.

Since World War II, the nonagricultural sectors of the Puerto Rican labor force grew steadily while the agricultural sector declined. Between fiscal year 1950 and 1968, the annual average number of workers employed in the entire labor force rose from 596 thousand to 701 thousand, while the number of workers in agriculture dropped from 214 thousand to 91 thousand. Losses of employment in sugar were the greatest, but other crops also were affected.

In May 1969, the Wage and Hour and Public Contracts Divisions conducted a survey of a selection of farms covered by the definition of the General Agriculture Industry in Puerto Rico. The number of farms, the number of covered employees, and the average straight-time hourly earnings of these employees by wage order classification are as follows:

<u>Classification and date</u>	<u>Number of farms</u>	<u>Number of covered employees</u>	<u>Average straight-time hourly earnings</u>	<u>Applicable wage order minimum</u>
<u>Coffee</u>				
November 1968 - Harvesting	64	1,103	\$0.78	\$0.50
May 1969 - Planting	50	566	.57	.53
<u>Tobacco</u>				
August 1968 - Planting	2	10	.54	.47
May 1969 - Harvesting	3	20	.58	.52
<u>Dairy farms</u>				
May 1969	125	1,720	.83	.70
<u>Pineapple</u>				
May 1969	3	332	.72	.65
<u>Tomatoes, peppers, aviculture and floriculture</u>				
May 1969	7	209	.78	.62
<u>Cattle and other agricultural activities</u>				
May 1969	14	221	.79	.55

The Commonwealth of Puerto Rico provided by the Legislature of Puerto Rico under Act No. 142, effective June 30, 1969, a guaranteed income supplement benefit to all remunerated workers employed in agriculture in Puerto Rico earning less than a specified amount. The guaranteed income supplement benefits

all remunerated workers earning wages for each regular hour of work lower than the ones specified in the act: 80 cents during fiscal year 1969-70, 90 cents during fiscal year 1970-71, and \$1.00 during fiscal year 1971-72 and subsequent years.

In view of these facts and on the basis of the entire record, the Committee finds that, having due regard to economic and competitive conditions, the minimum wage rates set forth in the recommendations below are the highest minimum wage rates for the industry, which will not substantially curtail employment in the industry and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands and American Samoa.

#### RECOMMENDATIONS

The minimum wage recommendations that are contained herein for the classifications of the General Agriculture Industry in Puerto Rico are made as separate and distinct recommendations, and, in determining whether such classifications should be established and in establishing such classifications, no classification has been established or minimum wage recommended solely on a regional basis or on the basis of age or sex.

The Committee, by a majority vote of its entire membership, as set forth below, recommends that every employer pay to each of his employees in the classifications (as referred to herein) of the General Agriculture Industry in Puerto Rico (as defined in Administrative Order No. 610) who in any work-week is subject to the provisions of section 6 of the Fair Labor Standards Act, minimum hourly rates as follows:

<u>Classification</u>	<u>Minimum wage rate</u>
Dairy farms, drivers and arts and crafts workers	\$1.10
Dairy farms, tractor operators	1.05
Dairy farms, other workers	.76
Cattle	.72
Pineapple farms, driver, tractor operators or operators of any other agricultural motor machinery, arts and craft workers, and any other similar occupation	.95
Pineapple farms, other workers	.68
Tomatoes, peppers, aviculture and floriculture	.66
Tobacco, coffee, and other agricultural activities	.58

Respectfully submitted,

With respect to all findings and recommendations,

*Jacob I. Barro*

Jacob I. Barro  
Public Member

*Luis Cardero-Martinez*

Luis Cardero-Martinez  
Public Member

*Mario Gonzalez*  
Mario Gonzalez  
Employer Member

*Roger H. Lewis*

Roger H. Lewis  
Employer Member

*Juan B. Garcia-Landez*

Juan B. Garcia-Landez  
Employer Member

Santurce, Puerto Rico  
December 12, 1959



## DISSENT

These proceedings are a sham.

The minimum wage rates recommended by the Committee majority are below, and in most instances far below, the minimum rates now being paid under Commonwealth Act No. 142. Moreover the particular rates recommended are not supported by any evidence before the Committee, and derive solely from the predilections of the committee members.

Furthermore, there is no possibility that the scheduled committee hearing on wages in the sugar segment of agriculture will result in anything but another similar farce. That is why the labor members of this Committee are not only dissenting from the wage determinations of this Committee but are resigning from the Sugar Committee.

### I

#### Impact of Act No. 142 on Industry Committee Wage Recommendations

Under Act No. 142, approved June 29, 1969, the Government of Puerto Rico guarantees to farm workers an income of not less than eighty (80) cents per hour during fiscal year 1969-70; not less than ninety (90) cents per hour during fiscal year 1970-71; and not less than one (1) dollar per hour during fiscal year 1971-72 and subsequent years.

The Secretary of Agriculture explained to the Committee: "It is expected that a higher income will retain farm workers in agriculture, thus alleviating the manpower shortage facing this industry, without raising production costs. Likewise, it is expected that said measures will raise the standards of living of farm workers, so that they may enjoy a more rewarding existence."

These are laudable aims.

Unfortunately, however, the mechanics of Act No. 142 operate in such fashion as to make redundant all industry committee wage determinations which recommend

wages below the minimums fixed by Act No. 142. The Act likewise stultifies collective bargaining.

That is because under Act No. 142 the Commonwealth Government does not subsidize farm wages at so many cents per hour, but instead pays to farmers the difference between the minimum set by Act No. 142, which is currently 80 cents, and, as the Secretary put it, "the wages payable by a farmer to agricultural workers by virtue of legislation, federal orders, decrees of the Minimum Wage Board, collective bargaining agreements, or labor contracts ...."

Thus, any increases in minimum wages recommended by an industry committee, up to the minimum set by Act No. 142, come out of the farmers' pockets but do not benefit the farm workers. The Commonwealth Secretary of Agriculture put it this way to the Committee: "Under our law, any increase in the minimum wage ..... would simply shift this burden from the Government to the farmers, without actually raising the income of workers. It would entail a significant saving to the Government of Puerto Rico, a saving which the Government does not wish to achieve, at least in this manner."

On that basis there is of course no point in convening Industry Committees for agriculture.

Moreover, the workings of Act No. 142 put the committee members in a completely impossible position. The industry members are supposed to, and do, represent the point of view of the farmers, and it is entirely understandable that they are reluctant, regardless of the criteria set forth in the Fair Labor Standards Act and the Regulations, to recommend wage increases that will take money from the farmer without giving it to the farm workers. One of the industry members stated that if he had understood in advance how Act No. 142 works, he would not have agreed to serve on the Committee; and the labor members are

entirely sympathetic with his view. It is likewise no labor of love for the labor members to seek increases that will hurt the farmers without helping the farm workers.

The Committee's recommendations could be of benefit to farm workers only if they fixed minimum rates above those set by Act No. 142, and the Act proves a powerful deterrent to any such course. That is because rates above those in Act 142 would be costly to farmers out of all proportion to the benefit to farm workers. For example, if a wage rate now set at 70 cents, e.g. dairy farms, were raised to \$1.00, it would, up until June 30, 1970, cost the farmer 30 cents an hour, while the farm worker would receive 20 cents an hour benefit. From June 30, 1970, to June 30, 1971, it would cost the farmer 30 cents an hour, while the farm worker received 10 cents benefit; and after June 30, 1971, it would still cost the farmer 30 cents an hour and the farm worker would derive no benefit.

Act No. 142 is thus in basic conflict with the industry committee procedure established by the Fair Labor Standards Act. There is at least a substantial question whether Act No. 142 is constitutionally valid under the supremacy clause of the federal Constitution, as respects operations covered by the FLSA.

For the same reasons, Act No. 142 undermines collective bargaining for farm workers.

We are wholly sympathetic with the objectives of Act No. 142, but strongly urge that it be revised so that the wage supplements payable under it are over and above the wage rates otherwise provided by legislation, wage orders, or collective bargaining agreements.

Meanwhile, we see no point in industry committees for agriculture. They cost the government money, and are neither beneficial to farm workers nor enjoyable for committee members.

## II

### The Recommendations of Industry Committee No. 89

The proceedings of this Committee are a culmination of the ever more cavalier way in which the business of these industry committees is being done, and its minimum wage recommendations are disgraceful.

The statute and the regulations establish criteria which are supposed to guide industry committees in their wage rate recommendations; and Sec. 511.13 of the Regulations provides: "Testimony on behalf of an employer or group of employers as to inability to pay the minimum wage rate specified in section 6(a)(1) or section 6(b) of the Act, whichever would be applicable, or as to inability to adjust to a higher minimum wage rate than prescribed by any applicable wage order of the Secretary, shall be supported by tangible objective data filed as part of the pre-hearing statement under Sec. 511.8, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years for the individual firm or firms involved."

Industry committees are supposed to operate in quasi-judicial fashion, and the resulting wage orders are subject to judicial review, including review of whether the findings of fact of the industry committee are supported by substantial evidence.

In fact, however, it has become the custom, and the operations of the present Committee are an appalling instance, that employers produce no specific evidence of the sort called for by the regulations to support a claim of "inability to adjust to a higher minimum wage rate". Instead employers, and their representatives on the industry committees, make generalized pleas of inability to pay, substituting emotional appeal for tangible objective data; and the committee members then vote wage recommendations on the basis of their preexisting predilections.

That is exactly what happened in this Committee.

The employers admittedly submitted no financial data meeting the specifications of Sec. 511.13, with the sole exception of financial statements filed by a single dairy (Flores Dairy, Inc.). Instead employer witnesses gave generalized testimony as to inability to pay, which was inadmissible under Sec. 511.13.

Mr. Juan Garcia-Mendez, who is an employer member of this Committee and has served as such on innumerable other Committees, took the position, as will appear from the transcript, that it was not up to the employers pleading inability to pay to adduce data in support of that claim, but rather that the burden of proof was on those claiming that the employers could pay. Mr. Marks, Regional Attorney for the Labor Department, advised the Committee that this position of Mr. Garcia-Mendez was not well founded, and that the burden of proving inability to pay rested on the employers. Nevertheless, and though that burden was not met by any evidence competent under the regulations, the Committee majority recommended a set of exceedingly low minimum wage rates.

The wage rates voted by the Committee majority were without exception below the 80 cent minimum wages now being paid under Act No. 142. Presumably the Committee concluded that even the rates now being paid would "substantially curtail employment" because of the farmers' inability to pay. As stated, there was no competent evidence (with one minor exception) before the Committee on inability to pay, and the Commonwealth has concluded that it is low farm wages that "substantially curtail employment". The "Statement of Motives" found in Act No. 142 recites: "The cultivated fields have been completely reduced; the production cost have been raised, although agricultural wages are relatively low; workers have become scarce because they seek work in other more remunerative activities.

Through this act, there is hereby declared as a public policy of the Government of the Commonwealth of Puerto Rico to guarantee to the agricultural workers a

greater income than the one they are receiving at present which will persuade to continue working in agriculture in order to ease the shortage of manpower encountered by this industry, ...."

As is apparent from what has been said, the particular rates recommended by the Committee majority have no support in evidence before the Committee. They are simply drawn from the otherwise salubrious Puerto Rican air.

At a late stage in the Committee's proceedings the staff of the Labor Department called attention to the fact that the wage rates being recommended were far below those prescribed for various categories of skilled workers by Commonwealth mandatory decrees. The recommendations were then revised to incorporate these decrees. Here too there is no evidence before the Committee as to whether these skilled job classifications are rational or irrational, or even as to what they mean.

We believe that a minimum wage rate of \$1.30 an hour should be recommended for all agricultural employees, which is the same as the mainland minimum. There is no competent evidence before the Committee that employers are unable to pay that amount, and unless future industry committee proceedings are to be the same sort of travesty as this one, employers pleading inability to pay should be required to meet the standards set forth in Sec. 511.13.

Moreover \$1.30 an hour is barely adequate, here or on the mainland, to keep body and soul together. It is in no way adequate to maintain a decent standard of living. We see no reason why low rates should be prescribed at the behest of employers who do not choose to substantiate their claims of inability to pay, nor do we think that any rate below \$1.30 is sustainable under the statute and regulations.

*Leon B. Schachter*

Leon B. Schachter  
International Vice President  
Amalgamated Meat Cutters and  
Butcher Workmen  
100 Indiana Avenue, N. W.  
Washington, D. C.

*Thomas E. Harris*

Thomas E. Harris  
Associate General Counsel, AFL-CIO  
Office of the President  
815 Sixteenth Street, N. W.  
Washington, D. C. 20006

*Armando Sanchez*

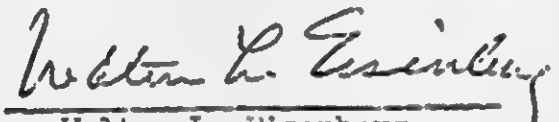
Armando Sanchez, Representative  
Amalgamated Meat Cutters Workers Union  
Edificio Light Center  
Pda. 24, Tercer Piso  
Santurce, Puerto Rico

Santurce, Puerto Rico  
December 12, 1969

# DISSENT

I dissent from the recommendation of the majority of the Committee inasmuch as my evaluation of the record before the Committee leads me to conclude that there are insufficient grounds upon which to keep Federal minimum wage rates in General Agricultural Industry from advancing by substantially greater amounts than those recommended by a majority of the Committee.

The record before us contains virtually no valid data on the financial condition of the industry, and certainly no data which could show that substantial increases in Federal wage minima would have an adverse impact on the industry and its workers. The record does not, in my opinion, yield any other compelling, convincing or indicative grounds for setting the Federal wage minima at levels so far below the legally permissible minimum for agriculture. In my judgment the economic condition of agricultural workers covered by Federal law in Puerto Rico offers confirmation of the essential soundness of the thrust and purpose of the Federal minimum wage law. The agricultural workers are in need of, and are entitled to, much greater minimum wage rate protection than they are afforded by the majority recommendation.

  
Walter L. Eisenberg  
Chairman  
Industry Committee 89-A

Santurce, Puerto Rico  
December 12, 1969



IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SINDICATO PUERTORRIQUENO DE )  
TRABAJADORES, AFFILIATED WITH )  
AMALGAMATED MEAT CUTTERS AND )  
BUTCHER WORKMEN OF NORTH )  
AMERICA, AFL-CIO )

and )

MODESTO RIVERA, GUILLERMO PEREZ, )  
GREGORIO PABON, individually and as )  
representatives of the class of employees )  
of the Puerto Rican general agricultural )  
industry )

v. )

CASE NO. 24507

GEORGE P. SHULTZ, SECRETARY OF )  
LABOR, UNITED STATES DEPARTMENT )  
OF LABOR, and ROBERT D. MORAN, )  
ADMINISTRATOR, WAGE AND HOUR )  
DIVISION, UNITED STATES DEPARTMENT )  
OF LABOR )

PETITION TO REVIEW A MINIMUM WAGE ORDER  
ISSUED UNDER THE FAIR LABOR STANDARDS ACT

1. Pursuant to the authority vested in him by §8 of the Fair Labor Standards Act, 29 U.S.C. 208, the Secretary of Labor published an Order at 29 F.R. 1105 (January 28, 1970) setting a scale of minimum wages from 58¢ an hour to \$1.10 an hour for employees of Puerto Rico's general agricultural industry. This Order incorporated the minimum wages set by Industry Committee No. 89-A, which was appointed by the Secretary

to hold public hearing and make wage recommendations as provided for in §8 of the Act.

2. This Petition for review is filed, under §10 of the Act, 29 U.S.C. 210, by the following persons aggrieved by the above described Order: the Sindicato Puertorriqueno de Trabajadores, a labor union representing agricultural employees in Puerto Rico which appeared as a party before Industry Committee No. 89-A and supported a higher minimum wage than was finally ordered, and by Modesto Rivera, Guillermo Perez and Gregorio Pabon, employees working in Puerto Rico's general agricultural industry, individually, and as representatives of the class of Puerto Rico's general agricultural employees.

3. The Petitioners allege that the above described Order is legally defective in that it does not meet the standards set by §8(a) of the Act, and by 29 CFR 511.13.

4. In light of these defects, the Petitioners urge this Court to exercise the power conferred upon it by §10(a) of the Act to modify the above described Order by setting the minimum wage for the Puerto Rico general agricultural industry at \$1.30 an hour, the rate set by the Act for agricultural employees employed in the continental United States.

Respectfully submitted,

A-23

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J. Albert Woll  
736 Bowen Building  
815 Fifteenth Street, N.W.  
Washington, D.C. 20005  
Attorney for the Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on Monday, March 23, 1970, I served by pre-paid airmail a copy of the foregoing Petition to Review on the following persons who attended and participated in the proceeding before Industry Committee 89-A:

Mr. Antonio Rodriguez Geigel  
Executive Director  
Puerto Rico Farm Bureau  
1200 Ashford Avenue  
Santurce, Puerto Rico

Mr. Jose Caraballo Negrón  
Sindicato de Obreros Unidos del Sur  
Box 106  
Salinas, Puerto Rico

Mr. Juan Torres Ortiz, President  
Union Agrícola de Maunabo  
Maunabo, Puerto Rico

Mr. Luis Rivera Brenes  
Secretary of Agriculture  
Commonwealth of Puerto Rico  
Santurce, Puerto Rico

Mr. John Cinque  
Assistant Secretary of Labor  
Commonwealth of Puerto Rico  
Hato Rey, Puerto Rico

Mr. Luis Limeres, Chairman  
Minimum Wage Board of Puerto Rico  
Commonwealth of Puerto Rico  
Santurce, Puerto Rico

Joseph P. McAuliffe, Regional Director  
Luz M. Vilarinho, Assistant Regional Director  
Ernesto Canacho, Supervisory Economist  
Julie B. Maffiz, Administrative Officer  
Carmen T. Ruiz, Secretary

Chairman Eisenberg opened the hearing and called upon RA Marks to give orientation to the members.

RA Marks spoke about the Fair Labor Standards Act, since its enactment in 1930 through the 1966 amendments. He read the definition of the General Agriculture Industry from the Administrative Order and the directives established by that Order, pertaining to industry committee procedure. He remarked that this Committee could not recommend a rate higher than \$1.30, as directed by the Administrative Order and explained coverage of the Act. RA Marks explained in detail the statutory criteria by which this Committee should be guided and touched on Regulations Part 511, sections 5 and 8 of the FLSA, quorum, the report and recommendations of the Committee, availability of transcript and of staff assisting the Committee. He indicated that the Committees usually adopt a working schedule of 9:00 a.m. to 12:00 noon and from 1:30 to 4:30 p.m., except for the first day of the public hearing, which was set by the Administrative Order this time for 1:30 p.m. At the end, RA Marks restated the statutory criteria by which the Committee should be guided.

Attorney De Jesús announced the receipt of the following prehearing statements:

1. Sindicato Puertorriqueño de Trabajadores - Amalgamated Meat Cutters and Butcher Workmen of North America - AFL-CIO, submitted by Messrs. Peter Buegal and Clifford Caldwell - Qualified as a party. Acceptance recommended.

Mr. Schachter, seconded by Mr. Oronoz, moved that the Committee accept Sindicato Puertorriqueño de Trabajadores - Amalgamated Meat Cutters and Butcher Workmen of North America - AFL-CIO as a party to the proceedings. Motion carried unanimously.

2. Puerto Rico Farm Bureau, submitted by Messrs. Antonio Rodríguez-Gélgel and Oreste Ramos - Attorney De Jesús reported that financial data had been received for the following:

Alberto L. Nevares  
Flores Dairy, Inc.  
Mario Oronoz  
Basilio del Pilar  
Agnes Ferrer Olivieri  
Edward Robers  
Cooperativa ABC Tabacalera

and that the only data meeting the requirements of Regulations 511.8 and 511.13, pertaining to qualification of parties and of witnesses and acceptance of evidence was the one submitted by Flores Dairy, Inc. At this point, Mr. Schachter started to make a motion to this effect, but withdrew it. Counsel De Jesús continued to recommend that the Committee accept Flores Dairy, Inc. as a party to the proceedings.

Mr. Schachter, seconded by Mr. Sánchez, moved that the Committee accept Flores Dairy, Inc. as a party. Motion carried unanimously.

Counsel De Jesús further recommended that the Committee invite as witnesses the other individuals and firms which had submitted financial data but had not qualified as parties, along with the persons listed as witnesses in the prehearing statement list, as follows:

Alberto L. Severas  
Mario Oronoz  
Basilio del Pilar  
Agnes Ferrer Olivieri  
Edward Bohars  
Cooperativa ABC Tabacalera  
Oreste Ramos  
Alberto Márquez  
Luis A. Becerra  
Lorenzo J. de Vizcarraondo  
Dr. Alexander Van Beyer  
Alfredo Vivoni  
Ramon Rivera-Bernández  
Victor Hernández-Penzol  
Francisco Zayas-Zayas  
Joaquín Báez  
Augusto Nazario-Grant  
Efren Díaz-Cruz  
Antonio Rodríguez-Géigel

Mr. Schachter suggested that they ask the witnesses not to be repetitious in their testimony and Attorney De Jesús agreed to convey the message to Messrs. Rodríguez-Géigel and Ramos, who would present the case. A brief question and answer period followed.

Mr. Schachter, seconded by Mr. Barro, moved to invite the witnesses listed on the prehearing statement list for the P. R. Farm Bureau, along with those who had submitted financial data on the prehearing statement, but had not qualified as parties. Motion carried unanimously.

from the year 1967-1968 to 1968-1969. This also showed an increase in the prior four years.

The following table, Supplementary Table 5, brings up to date the shipments of agricultural products from Puerto Rico to other parts of the United States. There was a decrease in the last year, and this was largely due to the reduction in raw sugar shipments.

Employment trends in agriculture in Puerto Rico are given on page B-12, Table 6.

Since World War II, the non-agricultural sector of the Puerto Rican labor force grew steadily, while agriculture declined. Agricultural employment dropped from 214,000 in 1950, which is shown in another part of the book--it is on page 9, but I don't think you need to turn to that, probably--to 91,000 in 1968.

Coffee is the second most important money crop in Puerto Rico and, as shown on page B-13, there were 160,000 cuerdas in coffee harvested; the production was 325,000 hundredweights in 1967-1968, and according to preliminary figures it dropped to 260,000 hundredweights.

The value in 1968-1969--

MR. KARRO: Through what period is that?

THE WITNESS: The preliminary figure is for 1968-1969, and that is 260,000. You will find these figures in the supplementary material in Tables 1 and 2, but I thought if you wanted to write it in here it may make it easier for you. And the value is 17,371. That is the last column, \$17,371,000.

There are several programs that have been established by the

Commonwealth Government concerning coffee, and one is that the price is supported at 68 cents per pound of green coffee.

Employment data is shown on the opposite page, on B-12, and there is quite a variation in employment by month, with the highest employment in 1968 during the harvest season of 28,000 in October of 1968.

There are more recent figures which are given in the supplementary material that I gave to you which is numbered Exhibit 6-A.

Mr. Chairman, if you should want me to read them, I can read them to you. Otherwise, I will go on, to save time.

CHAIRMAN EISENBERG: Why don't you just go on.

THE WITNESS: Tobacco is grown exclusively in Puerto Rico as cigar filler. The amount of land used in tobacco cultivation, as shown on B-13, has dropped sharply.

The average number of cuerdas in a tobacco farm is small. In 1966-1967 it was 1.4 cuerdas.

And there is a price support program at 30 cents per pound, not less than 30 cents per pound.

In the peak months of employment, in February, March and April of 1969, employment ranged from 6,000 to 7,000 workers--and when I am giving employment figures here, that is total employment. That doesn't mean employment covered by the Fair Labor Standards Act, but these are trends of employment in the whole industry.

The Island's general economic progress and rising standard of living have greatly increased the demand for all livestock products. The farm value of milk in 1967-1968 was \$65 million, which amounted



to nearly one-fourth of the gross farm income.

MR. SCHACHTER: You are showing this where, please?

THE WITNESS: You will find this in the supplementary tables of 6-A, and then for earlier years it is given in Tables 1 and 2 on pages B-2 through B-4.

The last figure I gave of \$65 million is given in Supplementary Table 2, and it increased to \$69 million in 1968-1969.

I will not refer especially to any other particular livestock products, but they were broken down by eggs, beef, pork, and poultry, and you can see the trend of those in most instances has been upward.

Pineapples are the most important of the fruit crops and are being grown principally on commercial plantations near Arecibo and Manati.

Between 1961-1962--which is given in Table 1--and 1964-1965 production increased from 57,000 tons to 80,000 tons, but since then the output has declined.

Most of the pineapple crop is shipped fresh or processed to the States.

There has not been a uniform trend with respect to a number of the other products that are listed in Tables 1 and 2.

In May of 1969 the Wage and Hour Division conducted a survey of a selection of farms with covered workers under the Fair Labor Standards Act. On page 17 is listed the number of farms that were surveyed for wages and employment by classification. The selection of farms was based on those that were surveyed for the previous committee, and where possible this data has been matched with the



coping with this very full and interesting report.

THE WITNESS: I might mention that the supplementary information I think does make it seem more complicated, but I think when you use it beside the tables, the original tables, it is not too difficult, but to refer back and forth it is.

I think one thing, there more or less was not any drastic change except perhaps it seemed to me that in most cases the trend that had begun a few years ago continued, and in the case of principal crops there was a decline mainly because of sugar. In the case of livestock products it continued to show an increase. And in the case of labor and employment, in most of those cases it showed a gradual decrease and continued to show that.

Perhaps I should have said that before when we started to use it. I think it is confusing to go back and forth, but I believe it will indicate that.

CHAIRMAN EISENBERG: Well, you gave us some homework to do and we will be sure to do it.

MR. HARRIS: Mr. Chairman, before Miss Beck leaves, I think it would be helpful if she would take one of these impact tables and explain to us exactly how it works, what the significance of the figures are.

THE WITNESS: I thought I did shorten that a little too much. I didn't know how close we were getting to the next part of the hearing.

DIRECT EXAMINATION (Continued)

THE WITNESS: Well, I will turn to page B-35, for instance,

and it is Table 11-B. This is the distribution of earnings of employees in the planting season of the coffee classification in May 1969. And there are 566 employees included in this collection of wage data. The minimum, which is given at the bottom, is 53 cents, and of the 566 employees, 73 percent earned no more than 55 cents. This category gives 52.5 to 55 cents, because that is the way it comes off the machines, but most of them are at the 53-cent minimum in that category of 73 percent.

Now, for the impact table, which Mr. Harris referred to, which is given on page B-47, Table 18-B, if the minimum were increased, say, to 60 cents, as an example, this would affect--

MR. GARCIA MENDEZ: What page is that?

THE WITNESS: Page B-47. Raising the minimum from 53 to 60 cents, this would increase the amount of the hourly wage bill that the employers are paying the employees \$30.59 an hour, or would increase the total wage bill for these 566 employees by 9.5 percent.

Now, this is raising only those that are at the minimum up to the level, for example, of 60 cents. It doesn't have anything to do with any of the employees who would be above this rate and might have their rates increased because of the minimum increase to keep the wage differential.

This amount would increase the average hourly earnings by 5 cents.

Now, for each one of the classifications we have computed what the impact of an increase would be on the earnings that were had in May of 1969.

MR. GARCIA MENDEZ: Excuse me. In this connection, assuming that

the increase of 5 cents was made across the board, what would be the impact on the hourly wage bill and the percentage? Do you have that figure?

THE WITNESS: I didn't figure that out, but I can.

If you raised all of them--there are 566 employees, and if you raised them all 7 cents, the impact would be \$39.62 on an hourly basis.

MR. GARCIA MENDEZ: You mean for 7 cents or for 5 cents?

THE WITNESS: The minimum now is 53 cents, and to raise that to 60 is 7 cents, so 7 cents times 566 employees is nearly \$40 an hour.

MR. GARCIA MENDEZ: Forty an hour?

CHAIRMAN EISENBERG: The straight-time increase to which that column refers is 5 cents over the 55 cents average straight-time hourly earnings, is that right, or is that over the average hourly earnings?

THE WITNESS: I am glad you mentioned that. It is over the average hourly earnings.

CHAIRMAN EISENBERG: It is 55 plus 5 cents as a consequence of raising that to 60 cents.

THE WITNESS: Thank you for bringing that to my attention.

EXAMINATION BY MR. GARCIA MENDEZ

Q So the increase would be, instead of 5 cents, how much?

A I think it would be about 6 cents in addition to that; it would be 63 cents.

I am doing a little estimating here. I will figure it out

exactly and let you know.

Q And percentagewise?

A It would be 11 percent, about. I will do that more accurately too. It will be around 11 percent.

Q On the average?

A Because in the planting season, you see, there are so many already at the minimum. Altogether there were over 70 percent that were paid no more than 55 cents, and many of those were at the minimum.

Q What would be the percentage increase with respect to those who were paid the minimum, the 53 cents? What would be the percentage increase to them, for those who were only paid the minimum, the 53 cents?

A I am not sure I understand the question. Was it to 60 cents?

Q You indicated that if the increase is made across the board, that would represent about \$40 in the hourly wage bill and that that would mean an 11 percent increase.

A Yes.

Q That is over-all increase.

A Yes.

Q On the payroll.

A Yes, for all that were surveyed.

Q I would like to know what would be the percentage increase with respect to the workers who only get the minimum, or 53 cents, because if that 11 percent, if I am right, is the average increase on on the payroll--but I don't want it on the payroll, I want it on

the average pay, or on the pay to the worker who gets the minimum pay of 53 cents. It has to be much more than 11 percent.

A I'm afraid I don't understand that. I'm sorry.

MR. GARCIA MENDEZ: Can we go off the record, please?

CHAIRMAN EISENBERG: All right, we will go off the record.

(Discussion off the record.)

CHAIRMAN EISENBERG: Let's go back on the record now so we have this for everybody's benefit.

Then you are saying, Miss Beck, in answer to the question put to you by Mr. Garcia Mendez, that if we look at page B-35, Table 11-B-- how should we read this table to get the information that he is asking about?

THE WITNESS: Well, to raise it to 60 cents, there would be about 80 percent of the employees that would get an increase, and that 80 percent that would get an increase, if you understand it right, if you use the table on B-47, then you will get what the amount of that increase is, the impact.

CHAIRMAN EISENBERG: Yes, and I think the further question that Mr. Garcia Mendez was putting was: What would be the percentage increase for the lowest paid employee: who would be getting that increase to 60 cents?

Is that what you are asking?

MR. GARCIA MENDEZ: Paid across the board.

CHAIRMAN EISENBERG: But you want it group by group, rather than on an average basis?

MR. GARCIA MENDEZ: Yes, group by group.

MR. MARKS: It is my understanding, Mr. Secretary, that you expect to return before Committee 89-B also to give testimony specifically with respect to the sugarcane aspect of agriculture.

THE WITNESS: That is right.

MR. MARKS: And today your testimony will be limited solely to general agriculture other than sugarcane?

THE WITNESS: That is correct, other than sugarcane. Right.

MR. MARKS: Will you proceed, please?

THE WITNESS: Mr. Chairman and members of the Special Industry Committee. We highly appreciate your invitation and opportunity to express our points of view in this hearing.

This statement will be constrained to indicate the purpose and implementation of Act No. 142 approved on June 29, 1969 and give our views thereon. Act No. 142 applies to workers of the agricultural industry, except those employed in the agricultural phase of the sugarcane industry. For additional information of the members of this committee we are furnishing herewith copies of the afore-cited Act and of the Regulations promulgated thereunder.

Agriculture has been, and continues to be, a very important sector in the economy of Puerto Rico. However, for several reasons, this industry is confronting serious problems which threaten its economic stability. Among other things, the area under cultivation has been reduced, production costs have increased, agricultural wages are relatively low as compared with those prevailing in other industries, and farm workers have become scarce.

The labor problem is one of the most important problems faced by

the general agriculture industry in Puerto Rico. This industry is not financially able at present to pay higher wages to compete in the labor market with other non-agricultural enterprises. In view of the urgency of solving, or at least alleviating, the problem aforementioned, the Government of Puerto Rico enacted Act No. 142 to guarantee farm workers a greater income than the one they were receiving. Farm workers who are eligible in accordance with the regulations promulgated by the Secretary of Agriculture are guaranteed an income of not less than 80 cents per hour during the fiscal year 1969-70; not less than 90 cents per hour during fiscal year 1970-71; and not less than \$1.00 per hour during fiscal year 1971-72 and subsequent years.

The purpose of this Act is to increase the workers' income, thereby reducing their absenteeism in agricultural activities, thus increasing agricultural production through more intensive planting, cultivation and harvesting. It is expected that a higher income will retain farm workers in agriculture, thus alleviating the manpower shortage facing this industry without raising production costs. Likewise, it is expected that the said measures will raise the standards of living of farm workers so that they may enjoy a more rewarding existence.

This guaranteed income is achieved by supplementing the wages received by agricultural workers through the payment of a certain income supplement to be advanced by farms and reimbursed to the latter by the Government. The income supplement is the difference, if any, where the wages payable by a farmer to agricultural workers by virtue of this legislation, Federal orders, decrees of the Minimum Wage Board, collective bargaining agreements, or labor contracts are less than the



income per hour guaranteed by the aforementioned Act. It benefits all remunerated workers for each regular hour worked at a wage lower than the income guaranteed by law.

The guaranteed income established by virtue of said Act does not change in any way the prevailing wages or those that might be agreed upon or decreed after the same went into effect for the various work classifications in the agricultural industry.

In construing this Act, it must be taken into account that the legislative intent was not to raise the wages per hour, but to guarantee that no worker in the agricultural industry, qualifying as such under the provisions of this Act, will have an income per hour lower than the one thereby established. As a consequence, the income supplement guaranteed by said Act shall not be construed to be a part of prevailing wages.

Farmers must advance payment from their own funds of the income supplement payable to each eligible worker. Subsequently, the Department of Agriculture reimburses them with said income supplement plus the approximate additional expenses involved in the payment thereof, including employers' contributions for purposes of social security, workmen's insurance, and the corresponding interest payments. The fundamental objective of the Department of Agriculture is to make the income supplements correspond as accurately as possible to the payments made to the workers.

Farmers must meet the following requirements in order to be eligible to receive reimbursement for payments of the income supplement:

1. Must have paid the income supplement guaranteed to eligible



farm workers employed during the period of time for which reimbursement is applied for, as well as the corresponding employers' contributions for purposes of workmen's compensation.

2. Must have agricultural workers covered by the insurance provided by the State Insurance Fund.

Eligible farmers must file the following applications to be provided by the Program:

1. Annual Application to participate in the Program.
2. Application for reimbursement of payments supplementary to farm wages. This application shall be filed every three months.

The amount to be reimbursed is determined on the basis of the information provided by the farmer in Form SSA-2-69 as to the number of hours worked by each person employed by him during each quarter and the hourly rate of wages paid. These payments are subject to verification in order to determine that they are in accordance with the provisions of this Act No. 142 and the Regulations promulgated thereunder.

Every natural or artificial person violating the provisions of this Act, in connection with the payment of the guaranteed income supplement, shall be liable for the total payment of the sums owed and also for the payment of an additional sum equal to the unpaid amount. Moreover, any natural or juridical person who may have received any reimbursement of supplementary payments on the basis of false or incorrect information given in connection with the facts relating to eligibility, or to payments of income supplement made, or to the amount thereof, shall be bound to return the total amount of the reimbursement in the first case, or the corresponding amounts in the other cases, without prejudice to

being subject to criminal prosecution for any offense incurred by such acts.

The foregoing information shows in a general way the purpose of Act No. 142 and how it is being administered. As might be concluded from this statement, said Act is a remedial measure to cope with an agricultural labor problem that farmers cannot otherwise confront. We feel that any increase in the wage minimums for general agriculture at this time would be counter to the objectives of the Fair Labor Standards Act under which this hearing is being held. It is clearly for conditions such as those presently prevailing in said industry that the Special Industry Committee provisions of the Act were designed. If the purpose of the Act is to raise the income of workers, that has already been done by the Commonwealth of Puerto Rico under conditions which will both give workers a higher income and reasonable assurance that they will have jobs to provide such income. As we have stated, this is being accomplished with public funds.

Under our law, any increase in the minimum wage, based on this supplement paid by the Government because the farmers cannot pay the same, would simply shift this burden from the Government to the farmers, without actually raising the income of workers. It would entail a significant saving to the Government of Puerto Rico, a saving which the Government does not wish to achieve, at least in this manner. The Commonwealth is willing to make up for what the farmers cannot pay until said industry is fully rehabilitated.

MR. DE JESUS: Mr. Chairman, I think the obvious has escaped us, we were supposed to have him identify himself for the record, and so,

WITNESS ZAPATA ACOSTA: May I explain this? The thing is that the law says specifically that for extra hours we are not going to give any supplement because the workers receiving pay for extra hours, they receive more than 80 cents per hour, so we pay only for the first eight hours and for six days, let's say 48 hours. And after 48 hours, by the labor laws here, you are supposed to pay more than straight hours, just two times, that is, double pay, for the 49th hour. That is why we are not paying supplement besides the 48 hours during a week, or supplements for more than eight hours a day.

MR. KARRO: Mr. Chairman.

CHAIRMAN EISENBERG: I think we are interrupting Mr. Harris. He was trying to get clarification.

MR. HARRIS: I don't mind at all.

MR. KARRO: The statute speaks for itself, if you will look at Section 2(b), the second paragraph, on page 2 of Act No. 142.

CHAIRMAN EISENBERG: That is what I have the Secretary looking at.

MR. KARRO: It shows that the Secretary is quite right.

CHAIRMAN EISENBERG: It does indeed.

MR. KARRO: It says: "The payment of the income supplements shall not be made for work performed during extra hours of work." Extra hours of work means overtime in the terminology of the local legislation, so that it is not to be paid for the overtime hours. And then it says: "nor when the wages per hour corresponding to the worker by virtue of the legislation, mandatory decrees, collective agreements," etc., "equals or exceeds the income guaranteed by this Act." So that if the

income, including the overtime, goes above 80 cents, then there is no supplement. But you were correct in stating that the overtime is not included in considering whether he is making the 80.

WITNESS ZAPATA ACOSTA: Will you repeat that, please?

MR. KARRO: Will you read it?

(The reporter read Mr. Karro's statement.)

MR. KARRO: I may have mis-spoken, but what I meant to say was that you were correct in stating that the work done in overtime hours is not included in considering whether the supplementary payments are due.

CHAIRMAN EISENBERG: Mr. Harris, would you like to continue?

EXAMINATION BY MR. HARRIS

Q You suggested, Mr. Secretary, that the committee should not recommend any increase in the minima at this time.

A (Witness Rivera Brenes) Yes.

Q Because you felt that the industry couldn't afford it and that the workers would get the necessary minimum wages from the supplement.

A That is right.

Q Well, if the committees don't at all increase these wages, wouldn't the gap between agricultural wages here in the Commonwealth and the wages paid on the mainland steadily increase?

A Well, I shall answer this way. I mean, the supplement is taking care--I mean, the Government is taking care, with these supplements, of any gap that might come.

Q Well, isn't the gap not only between Puerto Rico and the mainland going to grow steadily greater if your recommendation were

EXAMINATION BY MR. CALDWELL

Q Mr. Secretary, you made a very, very broad statement indicating that the industry, or agriculture, was financially unable to pay increased wages, and then you further, at the end of your report, recommended that there be no increases in the Federal minimums made by this committee.

Now I find, in looking at the Government's present Mandatory Decree on dairies, 66 cents an hour, that this industry is quite healthy and it continues to grow, apparently, according to the report, and has no significant problems. In an appearance before this same committee a year ago the industry itself asked the committee for a \$1.00 minimum rate to be established, and the report shows that in 125 selected dairy farms the average hourly earnings for May 1968 were 83 cents an hour, which is 3 cents above the rate that is established by this new law. You surely don't mean to suggest to the committee that they ignore a healthy segment of agriculture and apply your yardstick as being the finalization of policy? Do you suggest that in an industry as healthy as this, that the committee shouldn't take any action?

A (Witness Rivera Brenes) Well, let me tell you. Since we came into the Department of Agriculture the dairy industry has been claiming an increase in the price of milk because they say they are losing money. In view of that, we ordered a very thorough study of the whole industry, the farms and the pasturizing plants, to really see the true economic situation before doing anything in that area. So, as a matter of fact, we had, a few months ago, a decrease in production, and

the farmers claim that it was due to the economic situation rather than any other thing. And right now we are starting a thorough study, and by the end of 1970 we will be in a position to see the real economic situation of the whole industry. We are trying to stop anything that will do any harm, I mean, in increased costs for this industry, because, of the agricultural industry, the dairy industry is the best, but that doesn't mean that it is in a healthy situation, and I wouldn't want to see the dairy industry go down. That is why we are organizing a study.

Q Would I be making a supposition, Mr. Secretary, to say that you make your agricultural statement broadly based, really, on the depression in sugarcane?

A No, no, everything.

Q But the record doesn't support your answer.

A What record?

Q You show an increase in beef output, an increase in pork output, an increase in poultry production.

A How much?

Q Pardon?

A Of how much?

A Very substantial increases, according to the Government's report. And you just made a very, very broad statement that the entire industry was depressed. Now, the report doesn't quite support that. Now the dairy people, when they appeared before the committee, indicated that unless they got much higher minimum rates, that they would be unable to attract people. They also made it very clear to us, they explained this whole business of having to get the Government's

Q Yes.

A Will you repeat the question?

Q Is it your position that an employer has no special reason to oppose a wage increase which will come out of his pocket, which will not mean any additional money to the employees? You suggest that an arrangement of that sort is no obstacle to collective bargaining.

A No, sir, I didn't say that. I said that the money will come out of the employer's pocket regardless of the presence of this statute. That is what I said. Any increases in salaries that become effective without the presence of this statute or with the presence of this statute through collective bargaining agreements would come out of the employer's pocket, and I am saying that the employer will react in the same manner with or without the statute.

Q You don't think it makes any difference that the employer will be more reluctant to pay when it won't benefit the worker, but only the Government?

A No, I would not assume that.

Q In applying your Puerto Rico wage law, do you determine the ability to pay of each particular grouping like coffee, tobacco?

A Precisely, yes.

Q The same standard that we are applying here?

A I can't answer on behalf of your standard, but I may answer on behalf of mine, yes, sir.

Q Whereas the assumption of your supplemental wage legislation is quite different, that is, it has blanket application to agriculture as a whole?



A Your classification?

Q No, your wage supplement legislation.

A It is a blanket provision, yes, it applies as a whole, yes. There is one thing, of course, which has to be considered. Not every employer in Puerto Rico will be affected by your action because, especially in agriculture, not every employer in Puerto Rico falls under the jurisdiction of the Federal Wage Order.

Q Ours applies only to the larger employers?

A Yours apply only to those employers who fall under the jurisdiction of the Fair Labor Standards Act, which is 500 man-hours, or man-days, I believe. And that, of course, is one of the basic differences between your enactments or your orders and our decrees, because when we base our figures we have to base them on every employer as a whole, whereas you base your figure, when you determine the appropriate amount to pay, you will be determining it exclusively for those which are covered by the Wage Order.

MR. HARRIS: Thank you. I have no further questions.

CHAIRMAN EISENBERG: Any questions by the industry members?

(No response)

CHAIRMAN EISENBERG: Public members?

MR. KARRO: I have just one question.

EXAMINATION BY MR. KARRO

Q Do you know about what percentage of the agricultural employees are covered by the Federal statute?

A (Witness Lineres) No, I don't have the figure; and, of course, it varies depending on the specific agricultural activity. I may say



MORNING SESSION  
December 9, 1969  
9:00 A. M.

CHAIRMAN EISENBERG: Will the committee be in order, please.  
The hearing is resumed. The agenda with which we are working puts us at a point where we are ready to hear from Dr. Rodriguez Geigel.

Would you come forward, please?

MR. RODRIGUEZ GEIGEL: Could I use the services of my economist in case there are any questions?

CHAIRMAN EISENBERG: Yes, we will swear him as a witness when you need him.

MR. RODRIGUEZ GEIGEL: Also, I have a dairy farmer here who can help me in answering questions; Mr. Vizcarrondo.

CHAIRMAN EISENBERG: As you need their assistance we can swear them if they are required to give testimony.

Raise your right hand.

REPRODUCTION

ANTONIO RODRIGUEZ GEIGEL,  
a witness appearing on behalf of the Puerto Rico Farm Bureau, after being first duly sworn, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. DE JESUS:

- Q Would you please state your full name for the record?
- A Antonio Rodriguez Geigel.
- Q In what capacity do you appear today?
- A I'm the Executive Director of the Puerto Rico Farm Bureau.
- Q We have marked as Exhibit No. 14, a pre-hearing statement

filed by the Puerto Rico Farm Bureau. Would you like to submit that for the record at this time?

A Yes, with one correction, please. In the title it says 80. It should be 89-A.

CHAIRMAN EISENBERG: The statement will be admitted as Exhibit No. 14.

(WHEREUPON EXHIBIT NO. 14 WAS  
RECEIVED IN EVIDENCE.)

BY MR. DE JESUS:

Q Dr. Rodriguez, do you have any comments to make with regard to Exhibit No. 14?

A Yes, I wish to read a statement.

Q Would you please proceed to do so?

A Yes, sir. I have an introduction to the statement.

Q It's not in the statement itself?

A It's not in the statement.

I appear at this hearing in representation of the Puerto Rico Farm Bureau. The Puerto Rico Farm Bureau has a membership of 18,650 farmers. Nearly 69 percent of the estimated total number of farms in coffee, tobacco, dairy, beef, sugarcane, poultry and eggs, are members of the Puerto Rico Farm Bureau. Therefore, we appear as an interested party at this hearing. In support of our position as an interested party, a prehearing statement has been filed by the bureau in conformity with the regulations of the Department.

As part of our presentation to Committee 89-A, we are including copies of our statement submitted to Committee Number 80 in December, 1968. This statement is a descriptive summary of our

capital investments and represents additional costs, may create such uneasiness among farmers as to accelerate their retirement from farming.

2. There has been no significant increase in agricultural yields. We cannot anticipate dramatic changes in this respect due to the following:

a. Our topography does not lend itself to intensive mechanization. Of the total 1,850,000 cuerdas in agricultural use, about 997,000 have a slope of 36 percent or more and in 501,000 the slope is 60 percent or more.

There are only 530,000 cuerdas with a slope of 15 percent or less, in which mechanization would be possible. See Table 2-A.

b. Land tenure presents serious difficulties to the application of technology. Nearly 50 percent of the total number of farms have an area of 10 cuerdas or less. See Table 2-B.

We always have difficulty in presenting before this committee statements of profit and loss and the economic position of farmers, because the majority of the farmers just do not have that kind of information. We tried the best we could to bring before this committee at least some facts, but they did not qualify because in many instances they are not accredited by a competent CPA. In others there is not enough evidence or information to really make it of any importance. That is why we only have the dairy part to comply with the requirements. I just wanted to inject this information so that you know we have tried the best we can. But farmers here are not like farmers in the States, with the exception of the sugar estates in Puerto Rico. In the States you have a lot of

g farms that keep books and accounts. They formally have some sort of a statement to relate, to go by. In ours they do not.

c. Farmers are relatively old-aged and have had very little schooling. There is a tendency now with reference to this that the young people, the sons do not wish to stay in agriculture. That is a fact of why there are less farmers and less production, because the young generation, they just don't want to have anything to do with agriculture. I don't know if you have the same tendency in the States or not, but here in Puerto Rico you do.

Studies made by the Department of Agriculture show that one-third of our farmers are 60 years old or more, and approximately one-half of them are between 40 and 59 years. About two-thirds of our farmers have gone to school for less than six years.

d. Agricultural technology is much less developed in the tropics than in temperate zones.

e. Many of our products must compete in the U. S. markets with products from other tropical countries which pay much lower wages than those prevailing in Puerto Rico. Also, their maritime transportation is cheaper.

f. Many of our products must compete in the local market with products which are efficiently produced in the mainland area and sold in Puerto Rico at "dumping" prices. This is the case in many instances as to poultry and eggs.

3. Expected population increases in the next decade will require that extraordinary efforts be made to create new sources of employment and to maintain existing ones. It is assumed that agriculture will continue to be an important source of employment.

According to economic studies of the Commonwealth Minimum Wage Board, the profit per quart of milk produced has continuously reduced since 1960. In 1960, it was 2.1 cents per quart; in 1963 it was 1.3; and in 1966 it was 0.93 cents per quart.

Everything has to be imported. So those are the things that are affecting the dairying industry now. Replacement is a factor. We have to buy cows in the States. We don't produce them here except in a small way. Today that price has gone up \$700 per cow and probably \$800, instead of the \$400 and \$500 it used to be some years back. So that is another factor that is causing a holding back in the increase of production. If this condition keeps on, we are going to face a standstill in the industry.

Based on the information from this study, we can project what would be the effect if a minimum wage of \$1.00 per hour were in effect. For this purpose we will consider the increase in the price of milk which was authorized in 1967.

The payroll would increase by 61 percent. The cost of production of one quart of milk would increase from 16.71 to 18.65 cents. Income, due to the increase in price per quart of milk, would increase from 17.4 cents per quart of milk produced to 18.72 cents. This means that the profit would be reduced to only .07 of a cent per quart of milk.

There is no doubt that with this margin of profit there is no hope that the dairy industry could continue its development, nor that it could even survive. Perhaps I should say that labor changes every two years. That's by law. I think farmers should request a revision

will has already started. The hope is from the point of view of the cattle grower who recognizes that the cost of the cattle feed is 60 percent of the cost of the farm operation. It's a handicap, the high cost of the feed, so much so that the production of hogs, which is the lower priced meat and which is consumed by the middle class and the worker, cannot develop in the expansion of the industry because it's limited to the use of garbage for the feeding of the hogs. Commercially speaking, they cannot use concentrated feeds.

Q After knowing the structures of those cooperatives and the experience that you have in them, from the dividends received by the members, have the workers any share in them?

A I cannot answer that.

Q Referring to the pineapple industry, how many pineapple producers are there in Puerto Rico?

A Not many. The principal producer is Autoridad de Tierras. After that comes the Parkhursts and those people from Corozal, Landron Water. I don't think they are operating any more. Perhaps you may find individual farmers of 10 to 15.

Q I propound this question to you because I know there are two main producers. Considering that fresh pineapple is the biggest money producer, do you know how much fresh pineapple was sold this last year?

A It says here, and the source is the Department of Agriculture, Office of Statistics, in 1969 3,458 cuerdas of pineapple were harvested. Production in tons was 54,523. Yield per acre was 15.7 tons. The value of this total production was \$2,970,000.

A In order to get his pay to 80 cents.

Q So in effect it's simply a minimum guarantee of a rate per hour?

A That's right.

Q You made some reference to a problem in the dairy industry I was curious about. Perhaps you can help me with that. You indicated that it was necessary for dairy farmers to purchase milk cows. This sounds as if it is quite contrary to the practice I know about on the mainland where one of the byproducts of milk production is the production of calves. The female calves that look promising are kept and they become a part of the capital stock of milk producing cows. Yet, farmers in the dairy business here apparently find it necessary to purchase milk cows and not produce their own. How is that?

A Some of the farmers do produce. The number of cows that are brought up to production time are not quite as necessary. So when the cow becomes a non-producing cow they have to replace it. Maybe locally they could buy from a man who has some heifers that have been produced. But the majority of them will get their cows from the States. There are men who go over there from Puerto Rico who buy 25 to 50 cows for replacement.

Q Do you find that there is a continuing need for milk producing cows?

A Yes, sir.

CHAIRMAN EISENBERG: I have no other questions.

EXAMINATION BY MR. KARRO

Q Dr. Rodriguez, is there any source from which we could get



information that would give us some idea as to what role overtime plays in this situation?

A Perhaps the Department of Labor. That is the only source as far as records on wages and hours are concerned; the Department of Labor of Puerto Rico.

CHAIRMAN EISENBERG: Are there any other questions from the committee members? If not, Mr. Caldwell, do you have any questions of the witness?

MR. CALDWELL: Yes, sir.

EXAMINATION BY MR. CALDWELL

Q In answer to the question proposed by the witness, I am reading from the record. First of all, you questioned Mr. Juan Faria, Jr. He appeared as a witness on behalf of the Milk Producers Association of Puerto Rico before this committee last December. I am reading from record on page 530 where he says:

"The Milk Producers Association of Puerto Rico has consistently stated that we are in favor of a \$1.00 an hour minimum wage because we feel it is the only way we can keep our workers on the farm. A man working on a farm, that has five or six little ones and making \$5.00 a day, which is what he takes home, working six days a week and taking \$30 away, can hardly eat, can hardly survive, and is just a man that is unhappy. He hasn't left the farm because he doesn't know very well the road to the next industry. Our dairy farms are basically operated by the most inefficient people because those are the ones who stay."

I could read on.



CHAIRMAN EISENBERG: The witness is simply asking this committee not to consider that statement made before that other committee. He regards it as irrelevant to the work of this committee.

THE WITNESS: That is exactly what I meant.

BY MR. CALDWELL:

Q Dr. Rodriguez, you talked on a very broad base about everybody being unable to pay. Have you submitted proper financial data to support this statement?

A It was not qualified except therein.

Q May I ask why?

A Because the farmers here do not keep records.

Q May I ask why to that?

A I don't know. It's just the type of business. They don't keep records for it. We presented 11 or 12.

Q How can you justify saying that nobody makes money, if you don't know whether they do or not?

A I don't know. Most of them lose money, because if they were not losing money they would not disappear from the activity of being a farmer.

Q But there are other reasons, aren't there?

A I don't know.

Q Then we will ask some questions.

A Perhaps it's the fact that they are not educated well to keep records. That may be one. Perhaps it's the fact that it costs a lot of money to have a certified public accountant. Perhaps

it's the fact that the volume of business is not as big to require the keeping of records.

Q Do they file tax returns?

A Some of them do.

Q Would you know how many?

A I don't know.

Q Then you wouldn't know whether some of them did or not.

A Some of them did.

Q How many?

A The law requests the presentation of income tax records.

Q Wouldn't it be reasonable to assume that if they make income tax records they would have statements as to their operation?

A Perhaps.

Q 50 percent of the farms, you stated, are ten acres or less.

A That's what the Census says.

Q Isn't it true that there are some big farms?

A There are, sure.

Q Haven't they got financial data?

A As far as coffee, or what I represent here in sugar, yes. You have big farms which all have records and you will listen to them when Mr. Dudley Smith comes.

Q In answering questions from Mr. Armando Sanchez, you agreed that there are only three really substantial pineapple growers. Is that true?

A Yes.

Q They are pretty big, aren't they?

A One is government land. That's the Land Authority.

Q Does it make money?

A They don't seem to make money, because every year they have to go before the legislature to call for their deficits.

Q Could we get access to a financial statement regarding this operation?

A Perhaps, if you want to request it.

Q What are the other two farms?

A One of them is Landron in Corozal and they have retired from business because of the situation of not making money.

Q In 1968 the value of pineapple was \$3,616,000. This is talking about a considerable amount of money.

A Would you repeat that?

Q The value of all pineapple commodities was \$3,616,000 in 1968. This is according to Exhibit No. 6.

A In 1968 it was \$3,516,000.

Q All right, we were off a couple of dollars. This is substantial. That is the point I'm making. If three farms produce this much, shouldn't we see financial data as to their operations?

A The Land Authority is the biggest producer of pineapples. There may be five or ten other growers which are small enough to produce. The pineapple crop demands a very high capital investment for the first planting. Then if you replant every year--

Q How do you know that?

A Experience; by hearing, by listening and finding out.

Q Then why wouldn't you hear whether they make or lose money? It

seems that you get many facts just out of the air.

A The Land Authority is losing money.

Q Aren't you giving many facts to this committee that are just what you think, rather than what actually the record shows?

A You heard me reading this and you could understand why.

CHAIRMAN EISENBERG: May I interject at this point? I understand that the employees of the enterprise that you are talking about, Dr. Rodriguez, are in the State operated growing enterprise, are employees of the State, therefore they are not subject to the purview of this committee.

MR. CALDWELL: He is talking about one farm, Mr. Chairman.

CHAIRMAN EISENBERG: Just one farm. So they are not subject to the purview of this committee. It seems to me that the details involving financial data and so on, with reference to that operation, may not be strictly relevant.

MR. CALDWELL: The point of my questioning, Mr. Chairman, is that the witness in his entire statement makes broad generalities as to ability to do certain things and he does not support it with any documents.

CHAIRMAN EISENBERG: Questions along that line are indeed relevant. I just want the record to be clear that the employees who are employed in that State enterprise are not subject to any recommendations made by this committee.

MR. CALDWELL: I understand that, Mr. Chairman. Let us go now to the Dairy Industry. Exhibit 6 shows that in 1967-68 the value of the product was \$65.2 million.

Miss Beck's question on this point, that you did not see anything wrong about increasing the Fair Labor Standards Act rates to the levels that prevail under these mandatory decrees?

A Let me explain myself, sir.

Q Please.

A The thing that I want to say is that wages as of today should be frozen until this supplement proves what it is supposed to do. In other words, if a man receiving that supplement up to 80 cents an hour, then 90 cents and then \$1.00, proves that that man is going to stay and that more men are available for working farms, then consideration as to what has happened with reference to making profits on farms is concerned. But today whatever you do is just going to add more to the farmer and less for the government.

Q Let me be specific as to the kind of problem that confronts this committee. Perhaps you can help us. For example, the present rate set by committee under the Fair Labor Standards Act for the Dairy Products Industry is 70 cents and that applies uniformly in the industry. However, under the mandatory decree adopted by the Commonwealth Government, there is a rate of \$1.10 for drivers. There is a rate of \$1.05 for tractor operators. There is a rate of 65 cents for other workers in the Dairy Industry. So you have a rather significant difference between the rate of 70 cents and \$1.10 for those people who are engaged in a driving activity on dairy farms. If under the mandatory decree such rate is in existence and is apparently being paid to certain employees in the industry, would you urge this committee not to recognize such a rate?



A The thing is this: Those are skilled laborers, let's call them, the fellow who can drive a tractor, the fellow who can handle the equipment or the milking power. That's a skilled laborer. He gets higher according to the mandatory. When you refer to 70 cents, that is unskilled labor. If you up this, then you have to up the other. That is going to bring harassment to the industry until we finally get this study done by the government concerning the dairy industry. They are investing \$50,000. They have economists from the States. It is being worked now. There is a certain amount of tendency to believe that as a whole the industry is in good condition. But they do not tell you how many of the dairymen are losing money and how many are making money. I know of farms that are losing money in the Dairy Industry because they don't have enough land. There is no pasture available. They have to purchase their own pasture. They have to purchase their sugarcane tops. They have to purchase their molasses. All other farms which are better qualified, do not have that situation, except in purchasing concentrated feed. So we may have within the breaking point of profit making, a high percentage of those who are just covering expenses and a low percentage of those who are making profits.

Q Would it be correct for the committee to infer from what you have just said that while certain higher rates than the existing minima payable to skilled employees may be justified, that rates that are generally raised for all other workers may create certain economic problems?

In addition, I have worked with the Farm Bureau in Puerto Rico on a cooperative basis for, should I say, more years than I care to admit.

So with that, I--

MR. DE JESUS: Mr. Smith, do you have a prepared statement to give to this committee?

THE WITNESS: No, sir, Mr. De Jesus, I do not have a prepared statement. I would like to make brief statements with regard to tobacco and with regard to coffee.

MR. DE JESUS: Will you please proceed to make those statements?

THE WITNESS: Mr. Chairman, in Section 511.11, Title 29, Part 511 of the Code of Federal Regulations, there are certain items of pertinent data for consideration at a hearing of this kind.

I would like to address myself with regard to tobacco and then with regard to coffee in relation to sub-parts (b) and (c) of that section 511.11 of the referred-to Regulations.

Subsection (b) says that pertinent data for a hearing like this are market conditions and trends in Puerto Rico and on the mainland, and (c) says comparative production costs in Puerto Rico, on the mainland, and in foreign countries, together with the factors responsible for differences.

As Dr. Rodriguez Geigel testified to you this morning, Puerto Rican tobacco is used almost exclusively for cigar filler. Now, formerly, cigar filler tobacco was grown in Ohio, a little in Florida, in the Florida-Georgia area, in Pennsylvania, and in Puerto Rico in the United States. In addition, for many years we got

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As Dr. Rodriguez Geigel testified to you this morning, Puerto Rican tobacco is used almost exclusively for cigar filler. Now, formerly, cigar filler tobacco was grown in Ohio, a little in Florida, in the Florida-Georgia area, in Pennsylvania, and in Puerto Rico in the United States. In addition, for many years we got

filler tobacco from Cuba, and small amounts from other places.

Cigars formerly were made by hand, but around 30 years ago techniques were developed for making parts, at least, of cigars by machines, and that was the first important change in the cigar manufacturing industry and in the market for cigar tobaccos.

The next important change came with the cessation of trade relationships between the United States and Cuba, which had been the source of the principal part of the filler tobacco for cigars that continued to be made by hand, mostly in the Tampa, Florida area.

Now, for a short period following the cessation of trade with Cuba there was a boom in the market for Puerto Rican filler because it temporarily moved in to replace part of the filler formerly imported from Cuba.

Puerto Rican filler has not and does not compete too directly with the filler tobacco grown in Pennsylvania. Very little filler is grown in the Ohio area any more, and scarcely any, or none, in the Florida-Georgia area. So that this tobacco is not highly competitive with mainland tobaccos. It is not competitive at all with the cigarette type tobaccos, except as cigars and cigarettes themselves are competitive.

But it was soon found that tobacco of the Puerto Rican filler type could be obtained from a number of other places, and for a period--and this would be for the period around 1963, probably, to 1965 or 1966--the market for Puerto Rican filler tobacco was still pretty good. But with the subsequent changes in cigar blends--

and this is something that took place gradually over a period of three or four years--cigar manufacturers can now obtain filler tobacco from Brazil, as Dr. Rodriguez Geigel mentioned this morning, from the Dominican Republic, from various areas in Latin America, and especially from the Philippines, at prices which simply do not permit the Puerto Rican industry to continue on the basis that it did.

In addition to that, sizable surpluses of tobacco piled up in Puerto Rico, and it was necessary to reduce the acreage and production of Puerto Rican filler tobacco in order to prevent almost a complete market collapse for that tobacco.

That is the situation in which the Puerto Rican industry finds itself today.

Its competitive position is much more with foreign areas that have no minimum wages and have very low wages even in relation to ours in the tobacco industry, and in which Puerto Rican growers simply find themselves unable to market former volumes of their tobacco at prices in line with what they formerly sold their tobacco.

Now that, in the long and short, is the essence of the Puerto Rican tobacco situation.

In addition to that, there has been in other parts of the United States some degree of mechanization of tobacco production. The mechanization first was the substitution of tractors and tractor equipment for horses, with transplanters, mechanical transplanters, instead of hand planting, and more recently, in both what they call the stalk cut tobacco and the primed tobacco, mechanical means for



harvesting.

Puerto Rican tobacco is grown on very small farms, for the most part with family labor, and on land that you cannot--much of it cannot even operate an ox over it, to say nothing of mechanical equipment.

Now, in the foreign countries supplying tobacco, so far as the Philippines and the Dominican Republic are concerned, it is a hand operation. I am not familiar with Brazil. It is an operation on more favorable land than we have in Puerto Rico so far as the use of equipment is concerned, and it is land that lends itself to stronger competitive relationships than Puerto Rican tobacco enjoys.

Now for a short statement on coffee.

There are basically two types of coffee grown in the world. One is the mild coffee, such as grown in Brazil, and the other is the fine coffee that is grown in Puerto Rico and in some of the Central and South American countries. I am familiar with the fine coffee in Costa Rica and El Salvador. Coffee is not grown in other parts of the United States except in the Kona Coast of Hawaii, and there the market economics of the Kona coffee are quite different from those of other coffees of which we have knowledge.

One of the main differences between the mild coffees and the fine coffees is the altitude at which it is grown. Coffee has, for many, many years, been grown in the highlands of Puerto Rico. Formerly it was an important export commodity and it enjoyed a market preference, especially in France; and I am told that one of the preferential coffees in the French market was Yauco coffee,

which came and was processed through the town of Yauco on the South Coast of Puerto Rico. But after Puerto Rico ceased exporting coffee in any significant quantities, I am told that a town in Central America was renamed Yauco, and Yauco coffee still enjoys some preference in France.

But since coffee is not an industry that competes in any degree with other parts of the United States, I think we have to look at competitive conditions between Puerto Rico and other areas producing fine coffees.

In Central America, in Costa Rica and to a great extent in El Salvador, the coffee is grown open, without shade. In Puerto Rico it has been grown traditionally with shade. Apparently, when grown correctly, the growth of coffee without shade still yields the fine coffee to which we have become accustomed. The coffee in Costa Rica is grown in the area of the country known as the Meseta Central, which has an altitude not too different from our area around Jayuya in Puerto Rico. But, as I said, it is grown in the open. It is grown on moderately level land, and it is grown under conditions which permits a considerable amount of mechanical cultivation and the use of mechanical equipment in cultivation; and while they do not use any mechanical equipment for the harvesting process per se, they are able to use tractors and carts in the transportation of coffee from the groves to the plant where the coffee is processed.

Now, I have not studied wage rates in the coffee industry in Central America. I have, however, studied wage rates in the sugar industry, and I have no reason to believe that coffee wage rates

CHAIRMAN EISENBERG: Are there other questions from the labor members?

MR. SANCHEZ: No questions.

CHAIRMAN EISENBERG: Mr. Harris?

EXAMINATION BY MR. HARRIS

Q Mr. Smith, is tobacco imported into Puerto Rico from Brazil, the Dominican Republic and the Philippines for fabrication?

A I believe most of it comes into the States first and is shipped down from the States, Mr. Harris.

Q For use in the cigar factories here?

A For the cigar factories here. I do not have specific data as to the percentage of the filler used in factories here that is Puerto Rican filler and the percentage that is imported filler. From the amount that is used, the biggest part of it would have to be imported, because it isn't Puerto Rican tobacco that is being used.

Q How about coffee imports? Is fine coffee imported into Puerto Rico?

A Very, very little, and that comes from a Government program that permits only enough to come in to fill out the Puerto Rican consumption requirements.

May I say at that point that coffee is the only product that is on the free list for the continental United States so far as Customs is concerned, and on which there is a tariff collected on it when it is imported into Puerto Rico.

Q Where does that come from?

industry would bring almost complete cessation of economic activity on coffee farms. Some of it possibly could be put into grass and used for pasture, but the income per acre would be very low. The contribution to the Commonwealth economy would be, you might say, almost negligible. And even if somebody continued working on the land, the number of workers would be so low that they would be removed from the protection of the coverage of the Fair Labor Standards Act. But, by and large, that area would pretty much go back to forest, as it was a number of years ago, and it probably sooner or later would require some kind of a Government reforestation program.

Q What about tobacco?

A Tobacco, as I indicated in my answers to Mr. Schachter, I think the portion of the tobacco industry that hires substantially any labor would cease to exist.

Q Are you conversant with Law No. 142 of June 29, 1969, of the Legislature of Puerto Rico?

A Moderately so.

Q Would you give us some information as to how would an increase in the wages of coffee or tobacco affect the income of the worker in view of the specific provisions of Law No. 142?

A Well, an increase in the minimum wage, in the first place, would have the effect only of reducing the amount that the Government would have to pay as their income supplement to the workers on coffee and tobacco farms, because if, as has been testified here, this committee increases the minimum wage, directly or indirectly it will apply to all farms, all tobacco farms, it will apply to all coffee

farms, because all of them do hire seasonal labor. But it would apply straight through. Then the obligation of the Government would be reduced by the amount of the increase in the minimum wage, and the effect would be to increase the cost to the employer, not increase the return to the worker, to save money for the Government of Puerto Rico, which the Secretary of Agriculture testified yesterday that the Government was not particularly interested in saving, under the circumstances. But I would think most important, from the point of you gentlemen on the committee, would be the extent to which it would close out opportunities for employment for people who are currently employed on such farms, and many of whom would find it extremely difficult, if not impossible, to find employment elsewhere.

Q Would you expand on that, Mr. Smith? Why? Why do you feel that? Is it their age? Their ability? Their preparation? What?

A Well, in the first place, much of this seasonal work is performed by people who already have retired on social security. They can earn a certain amount of money and not prejudice their social security payments, and that is just what many of them are doing. They won't go elsewhere. And has been testified already, most of these workers are in advanced age, 50 years or more, and they are rather reluctant to move from their established places of abode to new areas for employment. And then, what is equally as important, is their lack of education and of skills which would make them useful in any other job.

The best way I think I could illustrate that would be that two or three years ago, when a large agricultural company was ceasing operations in the eastern part of Puerto Rico, and there was quite a clamor for establishing new industries in that area to provide employment for these people, the then Director of the Puerto Rico Economic Development Administration made a public statement which was carried in the papers to the effect that these people could not hold jobs in industries, they did not have the education or the skills or, at their ages, the ability to be trained to hold jobs in factories and places like that, that the only place they could work was in agriculture. And I think that is equally true--I am sure it is equally true, if not more so, of the hired workers on both coffee and tobacco farms.

Q Mr. Smith, are you conversant with the provisions of the Fair Labor Standards Act to the effect that employers who employ less than 500 man-days in any given quarter are not included?

A I am.

Q In spite of that provision, would those employers who use less than 500 man-days be affected by any change, and if so, would you kindly explain?

A Well, as was testified by Dr. Rodriguez Geigel this morning, if somebody else increases wage rates, and with somewhat of a scarcity of labor--and that is something that is debatable, but with somewhat of a scarcity of labor, they would have to increase their wage rates also to get anybody to work. So if wage rates were increased it would apply on those farms whether they were covered or



Q For all of the classifications before us?

A That's right, because there is nothing in the record to indicate that it should not be. This does not even provide a decent living.

CHAIRMAN EISENBERG: All right. Do you have any questions, Miss Beck?

MISS BECK: No, I don't have any questions, Mr. Chairman..

CHAIRMAN EISENBERG: The industry members, I think in the order of procedure, have the first opportunity to ask any questions.

Mr. Garcia, do you have any questions?

MR. GARCIA-MENDEZ: Yes, sir.

EXAMINATION BY MR. GARCIA-MENDEZ

Q Mr. Caldwell, you are proposing a wage rate of \$1.30 for agriculture?

A That's right.

Q Do you have any substantial evidence or facts which show that this industry could pay \$1.30, without producing unemployment or cause the disappearance of the industry? Do you have any evidence or facts to substantiate your request?

A I advise you, Mr. Juan Garcia-Mendez, that the burden of proof that you cannot pay the federal standards, rests on your shoulders. It does not rest on mine. As to unemployment, I think it was well discussed by the witnesses before this committee. The evidence on this question is already in the record.

Q So therefore, you do not submit any evidence because it is your considered opinion that you do not have to submit any kind of

go on right away, sir?

MR. DE JESUS: Off the record.

(Discussion off the record.)

CHAIRMAN EISENBERG: Let's have a five minute recess.

(Recess taken.)

CHAIRMAN EISENBERG: The committee is back in session.

I understand that we are to hear as the next union witness,

Mr. Caraballo. Would you come forward, please?

WHEREUPON

JOSE CARABALLO NEGRON,

a witness appearing on behalf of Sindicato de Obreros Unidos del Sur,  
after being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

BY MR. DE JESUS:

Q Would you please state your full name for the record?

A Jose Caraballo Negron.

Q Mr. Caraballo, do you represent any firm or union  
organization?

A I am the President of the United Laborers Syndicated Union  
of the South of Puerto Rico.

Q Do you have any statement to give to this committee?

A I have no written statement. But I will testify according  
to my personal knowledge.

Q Will you please proceed to do so?

A Honorable members of this committee, my testimony is for the  
purpose of bringing before you information to clarify some of the

aspects of the testimony I heard in the afternoon yesterday. At the same time I think I should bring before you my personal experience in the agricultural field. In the coffee industry there was testimony brought before you relative only to the coffee business. The truth is that on the coffee plantations the worker works for the coffee. But while the coffee is being cultivated there are also bananas, avocados, tanners, oranges and grapefruits. In other words, while the worker is cultivating the coffee, he is also cultivating a number of other crops, food products. I noticed yesterday that the information brought before you was relative only to the coffee. The testimony of Mr. Smith yesterday afternoon and that of Mr. Rodriguez Geigel, in reply to questions put to them by members of the committee, they said they were not in agreement for an even an increase of one penny to the salaries of the workers. That has been the position of the representatives of the employers and the same position has prevailed all along. However, the previous committee which examined the General Agriculture Industry did increase the salaries in different categories. The report prepared by the wage and salary division, which is before you, reveals that the employers did pay salaries higher than those increased by the committee. For instance, on page B-21 of the report--

MR. DE JESUS: Are you referring to Exhibit No. 6, the economic report?

THE WITNESS: Yes, sir. There it appears that there were employers who paid in the coffee industry, \$1.00 per almad. However,

CHAIRMAN EISENBERG: He hasn't finished the question yet.

MR. SCHACHTER: What is the question?

MR. ORONOZ: He did not answer the question I propounded to him earlier.

CHAIRMAN EISENBERG: As I understood the question, I thought there was more to it than that. But it's essentially repetition of the earlier question. It had to do with whether the witness intends to suggest to the committee that the illustration involving one company with a very substantial operation, a highly efficient operation is supposed to be typical of agriculture in Puerto Rico. Is that correct?

MR. ORONOZ: That's right.

THE WITNESS: When I answered the question in connection with Libby's, it was in reply to a question made by another member of the committee who asked me whether I thought the capacity of production in the United States had anything to do with the capacity of production in Puerto Rico. However, as to the tomato producers in Puerto Rico, which I might mention in passing are not the big producers, those tomatoes are sold in the local market for the local consumers and they are sold at a good price. Compared with a salary of \$1.30 it would not be such a burden if you take into account the progress of development in Puerto Rico, when we are still consuming all the tomatoes that are produced in Puerto Rico and also importing tomatoes from abroad. We could very well pay higher salaries and increase our production. The workers would be helped and so would the country.

in a day. They cannot find how they can work for a salary of \$6.00 per day.

Q Then how do you expect to replace these farm laborers?

A They have to mechanize. That is what we have been telling them, to mechanize, so that they will pay better salaries and have better workers. Then they may improve their production. Now they have invented something else. Now they want to bring in workers from other countries. We oppose that, because they will never mechanize and they will leave at a standstill the progress of our people.

MR. LEWIS: I'm a little confused. The witness insists that there is a shortage of workers. Then he has made the statement several times that if they get the \$1.30 an hour there will be plenty of workers. Could he explain that?

MR. SCHACHTER: I couldn't hear that. Would you repeat it?

MR. LEWIS: The witness has made the statement several times that there is a shortage of workers. Then at least once, maybe twice, he made the statement that if they got the \$1.30 an hour there would be plenty of workers. Would he explain?

THE WITNESS: Yes, there would be more workers. I want to make clear that if \$1.30 were paid there would be more people available for work and there would be young workers. Because we have to make clear that usually in agriculture a very large number of the workers are of advanced age who continue to work there because they are receiving Federal Social Security payments and receive the salary, and with one added to the other they make enough

money to live on. I am sure that with younger workers the man-hour yield would be increased. Also, they can operate machines for the development of the work.

EXAMINATION BY MR. DE JESUS

Q Didn't you say with regard to the previous question, that putting together their Social Security, plus what they earn it would make a salary of more than \$1.00 an hour?

A Yes, they would make more than \$1.00 per hour.

EXAMINATION BY MR. ORONoz

(In Spanish, through the interpreter.)

Q Mr. Caraballo, except that the advanced in age worker still has an income of \$1.00 per hour by adding the Social Security, plus what he makes with the laws protecting us, if to that you add the unemployment compensation, that there is not, but if there were, again, what figure would be obtained from that?

A We would still get the same figure because in this type of figure there is no unemployment compensation.

Q Is it true or not that a great percentage of the workers who are at present working on the sugarcane plantations are workers from the coffee plantations who shift at the end of the season to the sugarcane plantations?

A No, there is a great percentage of the sugarcane workers who go to the coffee.

Q That was not my question; from the coffee plantation to the sugarcane?

A There are workers who work in the coffee harvest and they



A Yes, sir.

MR. HARRIS: Thank you.

CHAIRMAN EISENBERG: Are there other questions from the committee members? If not, I understand that Dr. Rodriguez Geigel would like to ask some questions.

EXAMINATION BY MR. RODRIGUEZ GEIGEL

Q I would like to know that since he mentioned that he was in the States and had traveled through New Jersey, Pennsylvania and even the City of Philadelphia, and that he saw the products that are sold in Puerto Rico and produced in Puerto Rico, that were being sold at lower prices than in Puerto Rico, and you mentioned one specific product which is coffee, do you know for sure that those products were from Puerto Rico?

A I want to make clear that I did not say that they were Puerto Rico products. They were products from over there which could be bought there for lower prices than they could be bought here. However, products from Puerto Rico, I saw them over there at a price much higher than the one they are sold for here. For example, goat meat, we bought it at 59 cents a pound. Here it's purchased for \$1.25 a pound, locally grown. However, we buy here imported meat at 90 cents a pound, goat meat imported from over there. So there is a difference of 35 cents a pound between the goat meat produced here and the goat meat brought from the States. However, in the other products over there it's cheaper than it is here; rice, beans and corn. Here it's much more expensive than it is there. Milk is 30 cents a quart in New York. Here I have it delivered at home for 30 cents a

quart too. Salaries over there are a lot higher than they are here.

Q Do you know the price that the farmers get at their farms for the products that you are mentioning?

A Here?

Q Yes.

A No, sir; I don't know.

Q You should, because it's a very important factor.

CHAIRMAN EISENBERG: Don't argue with the witness.

MR. SCHACHTER: If he doesn't know, how can he answer?

THE WITNESS: However, I know that if you buy them in the supermarket they are up in the skies.

BY MR. RODRIGUEZ GEIGEL:

Q The next question is with regard to tomatoes. You say that the price of tomatoes here is 30 cents a pound and that that price is at the consumer level.

A 30 and 35.

Q Do you know the prices of these tomatoes in Jayuya, the price that the farmer receives at this farm for the same tomatoes?

A I don't know in Jayuya. But Aguirre is producing, and Santa Isabel, for the local market to sell to the supermarkets. The price they are selling at is between 12 and 20 cents a pound, depending on the different types of tomatoes.

Q Just taking the example that you mentioned, 12 cents a pound at Aguirre, those tomatoes are sold at 30 and 32 cents a pound, who makes the profit?

CHAIRMAN EISENBERG: The witness did not testify to this. You

Data Pertinent to the Review  
of Minimum Wage Rates Under  
the Fair Labor Standards Act in-

THE GENERAL AGRICULTURE INDUSTRY IN PUERTO RICO

September 1969

UNITED STATES DEPARTMENT OF LABOR  
Wage and Hour and Public Contracts Divisions

(WH70-299)

## FOREWORD

The policy of the Fair Labor Standards Act with respect to industries or enterprises in Puerto Rico engaged in interstate commerce or the production of goods for interstate commerce is to reach in each such industry or enterprise as rapidly as is economically feasible without substantially curtailing employment, the objective of the minimum wages prescribed for the 50 States.

Pursuant to this policy, Industry Committee No. 89-A will investigate economic and competitive conditions in the General Agriculture Industry in Puerto Rico. Upon completion of the investigation, including the public hearing, it will be the duty of this committee to recommend the highest minimum wage rates, not in excess of \$1.30 an hour, for the industry which it determines having due regard to economic and competitive conditions will not substantially curtail employment in the industry and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands or American Samoa.

Whenever the industry committee finds that a higher minimum wage may be determined for employees engaged in certain activities in the industry than may be determined for other employees in that industry, the committee shall recommend such reasonable classifications within that industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein which will not substantially curtail employment in such classification and which will not give a competitive advantage to any group in the industry.

The information in this report has been collected to assist the committee in the performance of its duties. It contains economic and other data deemed pertinent to the committee's investigation.

The report was prepared under the supervision of Helen Marie Beck and under the general direction of James B. Mitchell, Chief, Branch of Industry Committees.

Robert D. Moran, Administrator  
Wage and Hour and Public  
Contracts Divisions

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## INTRODUCTION

For the purposes of the wage order program under the Fair Labor Standards Act, agriculture in Puerto Rico has been divided into two industries: The Sugarcane Industry, covering activities relating to the cultivation of sugarcane, and the General Agriculture Industry, covering all other farming activities. Much of the same background information and general economic data is relevant to discussions of both of these industries. As a result, the material on pages 2 to 9 in this report is identical with the first nine pages of the economic report on the Sugarcane Industry. The topics treated on these pages are:

1. Coverage Under the Fair Labor Standards Act
2. Statutory Minimum Wages in Puerto Rico
3. General Economic Data

## I. DEFINITION

The General Agriculture Industry in Puerto Rico is defined for the purpose of minimum wage review by Industry Committee No. 89-A as follows:

Farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural, or horticultural commodities, the raising of livestock, bees, fur bearing animals, or poultry, and any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including the preparation for market, delivery to storage or to market or to the carriers for transportation to market; and processing, handling, packing, storing, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or making cheese or butter or other dairy products: Provided, however, That the general agriculture industry shall not include any activities, included in the definition of the sugarcane industry in Puerto Rico as defined for the purpose of minimum wage review by Industry Committee No. 89-B, the food and related products industry in Puerto Rico (29 CFR Part 673), the sugar manufacturing industry in Puerto Rico (29 CFR Part 689), the tobacco industry in Puerto Rico (29 CFR Part 657), and the communications, utilities, and transportation industry in Puerto Rico (29 CFR Part 671): Provided, further, That the industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

The definition is basically the same as that for the Agriculture Industry in Puerto Rico contained in the current effective wage order, except that sugarcane has been excluded. Some minor revisions have also been made in the definition, but these changes do not alter in any way the coverage of the industry, with the exception of excluding sugarcane, as defined in the current wage order.

## II. COVERAGE UNDER THE FAIR LABOR STANDARDS ACT

The Fair Labor Standards Act covers employees engaged in interstate or foreign commerce or in the production of goods (including closely related and directly essential processes and occupations) for such commerce, and employees employed in certain enterprises having employees so engaged or handling, selling, or working on goods that have been moved in or produced for such commerce. Prior to February 1, 1967, the effective date of the Fair Labor Standards Amendments of 1966, exemptions from both the minimum wage and the overtime requirements of the Act were applicable to employees employed in agriculture, as defined in section 3(f) of the Act; to employees employed within the "area of production" (as defined in 29 CFR Part 536) and engaged in handling, packing, storing, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products, or employed by a country elevator establishment having five or less employees employed in its operations therein; to employees engaged in the ginning of cotton for market in any county where cotton is grown in commercial quantities; and to employees engaged in the transportation and preparation for transportation of fruits and vegetables from the farm to a place of first processing or first marketing. The 1966 amendments narrowed the minimum wage exemption for activities defined as agriculture in section 3(f) and eliminated the minimum wage exemption for employees engaged in the other activities described above. With certain specific exceptions, the amendments brought under the minimum wage provisions employees employed in agriculture by any employer who used more than 500 man-days of agricultural labor in any calendar quarter of the preceding calendar year. There still is no requirement regarding overtime pay for farm workers. Pertinent terms have been interpreted as follows:

### A. Agriculture (as defined in section 3(f) of the Act)

Workers who cultivate the soil or grow or harvest crops, or who raise livestock, bees, fur bearing animals, or poultry are considered to be engaged in agriculture. Those who do such work in greenhouses, nurseries, and hatcheries are included.

Workers employed by a farmer on work incidental to their employer's own farming operations, including delivery of his farm products to market, are considered to be employed in agriculture. They are not doing "agricultural" work as defined by the Act in weeks when they work, on products not grown by their own employer.

Workers who work on a farm in work incidental to the farming operations conducted on that farm are also considered as agricultural workers, whether employed by a farmer or by an independent contractor.



Agriculture as defined in the Act, however, does not include any work off the farm which is performed by any employees other than those employed by the farmer.

Workers employed by a contractor are considered to be employed in agriculture when they grow or harvest crops--for example, when they pick fruit. This is also the case when they do work on a farm for the farmer that is incidental to the farming operations of that farm--as when they thresh grain grown only on that farm.

#### B. Covered Work

The Act applies generally to all workers who are engaged in or are producing goods for interstate or foreign commerce, and to workers employed in certain enterprises. Thus, the Act covers workers who grow crops or raise livestock which will leave Puerto Rico directly or which will leave Puerto Rico indirectly through a buyer who will ship them outside its borders or who will process them or use them as ingredients of other goods which will move in interstate or foreign commerce. "State" as used in the Act includes the Commonwealth of Puerto Rico.

#### C. Agriculture Exemptions

The minimum wage (and overtime pay) is not required for the following employees employed in the agricultural activities named in section 3(f) of the Act:

- (1) Workers who are employed in "agriculture" by an employer who did not use more than 500 man-days of farm labor in any calendar quarter of the preceding calendar year.
- (2) Members of the employer's immediate family.
- (3) Hand harvest laborers paid piece rates in an operation generally recognized as piece work in the region, if (a) they go each day to the farm from their permanent residence, and (b) they have been employed in agriculture less than 13 weeks in the preceding calendar year.
- (4) Hand harvest laborers, other than those described in (3) above, 16 years of age or under and employed on the same farm as their parents, if (a) they are paid piece rates in an operation generally recognized as piece work in the region, and (b) the piece rate is the same as paid workers over age 16.
- (5) Employees principally engaged in the range production of livestock.

Note: A "man-day" means any day during which an employee performs agricultural labor for not less than one hour. Workers listed in (2) and (3) above are excluded when counting "man-days".

D. Employer-furnished Facilities

Wages also include the reasonable cost or fair value, as determined by the Divisions' Administrator, of board, lodging, and other facilities customarily furnished by the employer to his employees. However, such costs are not included in wages to the extent they are excluded under an applicable bona fide collective bargaining agreement.

### III. STATUTORY MINIMUM WAGES IN PUERTO RICO

#### A. Under the Fair Labor Standards Act

The 1966 amendments to the Fair Labor Standards Act brought many agricultural workers and certain workers in related employments under the Act for the first time. Section 6(a)(5) of the Act provides that newly covered employees in agriculture on the mainland be paid a minimum wage in accordance with the following schedule:

- (1) not less than \$1.00 an hour beginning February 1, 1967,
- (2) not less than \$1.15 an hour beginning February 1, 1968,
- (3) not less than \$1.30 an hour beginning February 1, 1969.

For an industry in Puerto Rico, section 6(c)(3) provides that in lieu of these rates there be appointed a special industry committee to recommend the highest rate or rates that will not substantially curtail employment in the industry or give any industry in Puerto Rico a competitive advantage over any industry elsewhere in the United States, but not in excess of those set forth above.

Since enactment of the 1966 amendments to the FLSA, two industry committees have met with regard to agricultural activities in Puerto Rico--the first committee met in March 1967 and the second met in December 1968. The first committee recommended the establishment of classifications and minimum wage rates for agricultural activities which became effective in two steps--the first step effective April 28, 1967, and the second step effective February 1, 1968. These rates are listed in columns (1) and (2) presented below. The current minimum wage rates under the FLSA for agricultural activities in Puerto Rico, which were recommended by the second committee and became effective on February 1, 1969, are presented in column (3) below:

Classification	First committee		Second
	Effective	Effective	committee
	4/28/67	2/1/68	Effective
			2/1/69
Sugar cane	\$ .55	\$ .57	\$ .65
Coffee	.50	no change	.53
Tobacco	.45	.47	.52
Dairy farms	.55	.57	.70
Pineapples	.57	.59	.65
Tomatoes and peppers	.55	.57)	
Aviculture	.55	.57)	.62
Floriculture	.53	.55)	
Cattle	.50	no change)	
Other agricultural			.55
activities	.45	.47 )	

B. Under the Minimum Wage Act of Puerto Rico

In addition to the minimum wages established under the Fair Labor Standards Act, minimum wages have been fixed by the Commonwealth Government under the 1956 Minimum Wage Act of Puerto Rico for employees engaged in interstate commerce and local activities.

There are five mandatory decrees currently in effect which apply to agricultural activities included in this report. These mandatory decrees are:

1. Mandatory Decree No. 27 The Dairy and Cattle Industry
2. Mandatory Decree No. 50 The Sugar Industry in its Agricultural Phase
3. Mandatory Decree No. 57 General Agricultural Activities
4. Mandatory Decree No. 58 The Coffee Industry
5. Mandatory Decree No. 69 The Tobacco and Food Crops Industry

A summary of the minimum wages currently applicable under these Commonwealth Mandatory Decrees is presented in Appendix A beginning on page A-1.

C. Income Supplement, Acts Nos. 141 and 142 of Puerto Rico

The Commonwealth of Puerto Rico provided by the Legislature of Puerto Rico under Acts Nos. 141 and 142, effective June 30, 1969, a guaranteed income supplement benefit to all remunerated workers employed in agriculture in Puerto Rico earning less than a specified amount. Act No. 141 applies to the agricultural phase of the sugar cane industry in Puerto Rico. Act No. 142 applies to the agricultural industry of Puerto Rico except those working in the agricultural phase of the sugar cane industry of Puerto Rico. The guaranteed income supplement benefits all remunerated workers earning wages for each regular hour of work lower than the ones specified in the acts:

Eighty cents during fiscal year 1969-70  
Ninety cents during fiscal year 1970-71  
One dollar during fiscal year 1971-72 and subsequent years

#### IV. GENERAL ECONOMIC DATA

##### A. Scope of Agricultural Activities in Puerto Rico

###### 1. The land

In 1967, the Puerto Rico Department of Agriculture estimated that 1,785,000 acres of land were devoted to agriculture in Puerto Rico. Of this, approximately 35 percent was used as cropland, 44 percent as pasture and 17 percent was in forest and brush.

	<u>Thousands of acres</u>	<u>Percent of total</u>
Total agricultural land	<u>1,785</u>	<u>100</u>
Cropland	<u>631</u>	<u>35</u>
Sugarcane	272	15
Coffee	179	10
Tobacco	10	1
Other	170	9
Pasture and range	<u>776</u>	<u>44</u>
Forest and brush	<u>310</u>	<u>17</u>
Other	<u>68</u>	<u>4</u>

## 2. Income from agriculture

Between fiscal years 1960 and 1968 total net income in Puerto Rico more than doubled. During the same period net income from agriculture fluctuated between a low of \$180 million in fiscal 1960 to a peak of \$226 million in fiscal 1963, from which it declined to \$185 million in fiscal 1966. Since then net income increased, reaching \$187 million in fiscal 1968.

	<u>1960</u> (In millions)	<u>1968</u>
Total net income	<u>\$1,355</u>	<u>\$3,076</u>
Income from agriculture	<u>180</u>	<u>187</u>
Compensation of employees	71	67
Income from property	109	120

Source: Puerto Rico Planning Board, 1968 Economic Report to the Governor, p. A-5.

## 3. The crops

The estimated quantity and value of agricultural products in Puerto Rico are given in Tables 1 and 2. During fiscal 1968, the traditional money crops of sugarcane, coffee, and tobacco accounted for 35 percent of the total farm value of agricultural commodities, which in crop year 1967-68 amounted to \$94.8 million out of a total of \$267.5 million. During the previous 4 years, these three crops accounted for no less than 40 percent of the total. The value of livestock products increased during the 4 years, rising by 13 percent from almost \$103.9 million in crop year 1964-65 to \$117.5 million in crop year 1967-68. Fruit and vegetable crops are relatively small. Plantains, bananas, and pineapples are the most important of these crops.

The quantity and value of shipments of agricultural commodities, including sugar, from Puerto Rico to other parts of the United States from 1965 through the first 6 months of 1969 are given in Tables 3, 4, and 5. Shipments of agricultural commodities were valued at \$84.7 million in 1968, a decrease of 23 percent since 1967. The decrease in shipments is largely due to the decline in the production and shipment of raw sugar.



#### 4. Employment trends

Since World War II, the nonagricultural sectors of the Puerto Rican labor force grew steadily while the agricultural sector declined. Between fiscal year 1950 and 1968, the annual average number of workers employed in the entire labor force rose from 596 thousand to 701 thousand, while the number of workers in agriculture dropped from 214 thousand to 91 thousand. While losses in sugar were the greatest, other crops also were affected. Average employment in various agricultural sectors for selected fiscal years follows:

<u>Crop</u>	<u>1950</u>	<u>1960</u>	<u>1968</u>
	(In thousands)		
Agriculture, total	<u>214</u>	<u>124</u>	<u>91</u>
Sugarcane	87	45	24
Coffee	22	23	20
Tobacco	20	9	4
Other farms	85	47	42

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Source: Commonwealth of Puerto Rico, Planning Board, 1968 Economic Report to the Governor.

Employment in agriculture in Puerto Rico by class of worker for May in 1968 and 1969 follows:

	<u>May 1968</u>	<u>May 1969</u>
	(In thousands)	
Employed in agriculture, total	<u>90</u>	<u>90</u>
Wage and salary workers	56	54
Self-employed workers	28	29
Unpaid family workers	6	6

## B. Individual Product Groups

### 1. Coffee

#### a. Number of workers

Coffee, the second most important money crop, is raised primarily in the western uplands of the central mountain range of Puerto Rico. The area harvested has remained constant at about 160,000 cuerdas for over 15 years.

Average yearly employment was 18,000 in 1968 compared with 20,000 in 1967 and 18,000 in 1966. The seasonal nature of coffee farming is discernible in the marked change in employment from one period of the year to another. Peak harvest employment was 28,000 in October 1968 in contrast with 11,000 as of May 1967 and May and June 1968 (Table 8).

#### b. Production and shipments

In 1967-68 the production of coffee totaled 325,000 hundredweight, 25,000 hundredweight more than in 1966-67 (Table 7). The farm value of coffee production was nearly \$21.8 million in 1967-68, or an average of \$67 per hundredweight. The value of production in 1966-67 was nearly \$19.1 million, or an average of \$71 per hundredweight.

Most of the coffee grown in Puerto Rico is consumed locally. Shipments to the U. S. mainland amounted to 1.8 million pounds valued at \$624,000 in 1968. While shipments in 1968 were larger than in the previous year, they are far below the level in 1965 when they amounted to 12.2 million pounds valued at nearly \$4.9 million (Tables 3 and 4).

Shipments of Puerto Rican coffee to the U. S. mainland are proportionately minor when measured against total U. S. receipts from foreign countries. In 1968 for example, green and roasted coffee received from Puerto Rico amounted to \$624,000 which constitutes only a minor portion of the total \$1,144 million received by the United States from all parts of the world. Brazil and Colombia are the principal sources of coffee imports into the United States (Table 8 ).

c. Government assistance

Several programs have been established by the Commonwealth Government in an effort to alleviate some of the problems facing the coffee industry. These include the following:

- (1) Coffee improvement: This program provides economic incentive to farmers for the establishment of new coffee plantations. It encourages substitution of new crops in the less productive areas and provides payments to farmers for the application of fertilizers.
- (2) Hurricane crop insurance: Gives protection for the crop and plantation against damages and losses suffered from hurricanes.
- (3) Price supports: The Commonwealth Government, through the Economic Stabilization Office buys coffee from farmers at a guaranteed fixed price. (The price of coffee is supported at a minimum of \$0.68 per pound of green coffee.)
- (4) Export subsidy: This program provides subsidies for coffee shipped out of Puerto Rico.
- (5) Other subsidy: An additional direct subsidy of \$0.45 is paid for each pound that dealers and processors of coffee buy from farmers.

Although Puerto Rico is not a direct participant in the International Coffee Agreement, which covers more than 95 percent of the world coffee trade, it is nevertheless affected by the export quotas for each participating nation and the prices which have been established by this agreement.

## 2. Tobacco

### a. Amount of land in use, number of farms, and employment

The tobacco grown in Puerto Rico is used exclusively as cigar filler and is classified by the U. S. Department of Agriculture as Filler Tobacco, Type 46. Between fiscal 1954, the peak year in the post-World War II period and fiscal 1960, the amount of land under tobacco cultivation dropped off steadily and sharply, from 41.7 thousand cuerdas to 24.2 thousand cuerdas. During the period between fiscal 1960 and 1965, the amount of land in use increased to 30.0 thousand cuerdas in 1963-64 and 1964-65. Since then the amount of land in use dropped off sharply to 7.8 thousand cuerdas in 1967-68. <sup>1/</sup>

In 1966-67, 6,500 farmers planted about 9,500 cuerdas of tobacco in Puerto Rico. This compares with 12,770 tobacco farmers who planted 18,000 cuerdas in 1965-66. The average number of cuerdas per tobacco grower was 1.4 in 1966-67 and 1.5 in 1965-66.

Average annual employment in tobacco farming was 3,000 in 1968. In January and February 1968, two of the peak months in the harvest season, there were 6,000 workers employed in tobacco farming. In March 1968, employment had increased to 10,000 and in April 1968 employment was 7,000 workers. However, during the same 4 harvest months in 1969, employment was lower in 3 of the 4 months. In February employment was at 6,000 workers in both 1968 and 1969. In the peak months of March, employment was 10,000 in 1968 compared with 7,000 in 1969 (Table 6).

### b. Marketing quotas and prices

Marketing quotas established by the Department of Agriculture of the Commonwealth of Puerto Rico have been in effect since the 1940's. As a result of these controls, farm prices have not fallen below 30 cents per pound. In the crop year 1963-64, the average price per pound reached 40.8 cents but dropped the next year. The average price per pound to growers since then is as follows:

<u>Crop year</u>	<u>Price per pound (cents)</u>
1964-65	37.2
1965-66	32.1
1966-67	31.3
1967-68	33.1

<sup>1/</sup> One cuerda equals 0.97 acres.

c. Production and shipments

In the early 1960's, the annual production of filler tobacco in Puerto Rico generally increased until it reached a peak of 379 thousand hundredweights in the crop year 1964-65. Production dropped in fiscal years 1965-66 to 165 thousand hundredweights. It has continued to decline with production amounting to 112 thousand hundredweights in 1967-68. The farm value of production has had a corresponding loss in dollar value (Table 7 ).

Tobacco grown in Puerto Rico is used to manufacture cigars in Puerto Rico and also some of it is shipped to the U. S. mainland for the manufacture of cigars. The quantity and value of tobacco grown in Puerto Rico and shipped to the U. S. mainland in 1967 and 1968 are as follows:

	<u>Quantity</u> <u>(1,000 pounds)</u>		<u>Value</u> <u>(\$1,000)</u>	
	<u>1967 : 1968</u>		<u>1967 : 1968</u>	
Tobacco grown in Puerto Rico, total	<u>14,043</u>	<u>4,718</u>	<u>\$10,564</u>	<u>\$3,282</u>
Leaf tobacco, except cigar wrapper, grown in Puerto Rico :				
Stemmed	214	259	355	441
Unstemmed	638	69	1,154	43
Tobacco, nec, including stems, trimmings, scrap, cuttings, and siftings--unmanufactured, grown in Puerto Rico	13,191	4,390	9,055	2,799

Comparable information for previous years are not available on shipments of tobacco grown in Puerto Rico. Information for the first 6 months of 1968 and 1969 is shown in Table 5.

### 3. Dairy farming and livestock

#### a. Production

The island's general economic progress and rising standard of living have greatly increased the demand for all livestock products. The production of milk in 1967-68 amounted to nearly 381.1 million quarts with a farm value of \$65.2 million, which amounted to nearly one-fourth of the gross farm income. Production in 1967-68 was 3 percent more in quantity and 11.3 percent more in farm value than in the previous year. Since 1960-61, the average yearly increase in production was 4.5 percent and in value was 6.4 percent. The following data show the trend in milk production and farm value since 1960-61:

<u>Year</u>	<u>Milk</u> <u>(million quarts)</u>	<u>Value</u> <u>(million dollars)</u>
1960-61	289.2	\$45.0
1961-62	311.0	48.7
1962-63	332.8	52.6
1963-64	341.1	54.4
1964-65	358.3	56.6
1965-66	363.2	57.4
1966-67	369.8	58.6
1967-68	381.1	65.2

In 1967-68 beef output amounted to 42.6 million pounds with a farm value of \$18.7 million. While production in this year was lower than the previous year, beef production has followed a generally consistent upward trend for over 10 years.

Pork production increased from 24.0 million pounds in 1961-62 to 27.9 million pounds in 1967-68. There has been a consistent upward trend in the farm value of pork production, reaching \$10.3 million in 1967-68 compared with \$9.7 million in the previous year.

The poultry meat production was 25.0 million pounds valued at \$11.2 million in 1967-68. Egg production has shown a consistently upward trend, reaching a level of 21.2 million dozens in 1967-68, with a farm value of nearly \$12.1 million (See Tables 1 and 2 for production of livestock products since 1964-65.)



b. Government regulation of prices

The fluid milk industry in Puerto Rico has been regulated by the Office of Milk Industry Regulation of the Commonwealth Department of Agriculture since 1957, both with respect to the minimum price received by the farmer and the maximum retail selling price. In accordance with the provisions of Milk Industry Regulation Number 1, as amended, farmers must be paid 19 1/8 cents per quart effective October 21, 1967. Out of this 19 1/8 cents, the farmer must pay 3/8 cents per quart and the processor must pay an additional 3/8 cents as a contribution to the Milk Industry Promotion Fund operated by the Commonwealth Government. Under the same regulation processors are required to pay farmers 10 cents for every quart of surplus milk, which is milk from first class dairies sent by the processor to the milk products plant (INDULAC). The processor in turn receives 9 cents out of which 4 cents are paid by the Milk Industry Promotion Fund and the remaining 5 cents by the milk products plants either in cash or in milk products.

4. Pineapples

Pineapples are the most important of the fruit crops and are being grown principally on commercial plantations in the central northern plain around Arecibo and Manati. Production on a commercial scale is a relatively recent development on the island. Between 1961 and 1967 the area harvested has ranged from 3,699 cuerdas in 1962 to 4,980 cuerdas in 1965. In 1967, there were 4,850 cuerdas harvested with a yield of approximately 28,000 pounds per cuerda (Table 7). (The growing cycle of the pineapple plant is from 12 to 22 months.)

Between 1961-62 and 1964-65, production increased from 57 thousand tons to 80 thousand tons with a farm value of \$2.5 million and \$3.9 million respectively. Although there was a substantial gain in output in this 4-year period, the upward trend was interrupted. The quantity of production steadily declined with production in 1967-68 amounting to 62 thousand tons with a farm value of \$3.2 million.

Most of the pineapple crop is shipped fresh or processed to the U. S. mainland. The quantity of fresh pineapples shipped from Puerto Rico to the U. S. mainland from 1965 to 1968 fluctuated from a low of 34.5 million pounds in 1966 to a high of 41.8 million pounds in 1968. During this 4-year period, pineapples prepared or preserved in airtight containers were highest in 1967 with shipments of nearly 10.5 million pounds and lowest in 1968 with shipments of 6.8 million pounds. Shipments of canned pineapple juice have decreased from 630,000 gallons in 1965 to 56,000 gallons in 1968 (Table 3).

The value of fresh pineapples shipped from Puerto Rico to the U. S. mainland increased from slightly more than \$2.3 million in 1965 to nearly \$2.6 million in 1968. The value of all types of pineapple shipments from Puerto Rico to the U. S. mainland decreased from nearly \$4.2 million in 1965 to \$3.6 million in 1968 and is shown below:

<u>Commodity</u>	<u>1965</u> (\$1,000)	<u>1968</u>
All pineapple commodities	\$4,154	\$3,616
Fresh	2,340	2,556
Canned juice	359	30
Prepared or preserved in airtight containers	1,456	1,030

The United States imports pineapples from several areas throughout the world. Hawaii is the most important source of pineapples in the United States. According to the Statistics of Hawaiian Agriculture-1967, published by the Hawaii Crop and Livestock Reporting Service, approximately 23.9 million cases of canned pineapple valued at \$130.5 million were produced in 1967--13.7 million cases were canned fruit, 9.1 million canned juice and 1.1 million frozen concentrates. In 1967, 27.3 thousand tons of fresh pineapples were processed in Hawaii--5 thousand tons were consumed locally, 21.3 thousand tons were shipped to the U. S. mainland, and 1.2 thousand tons to foreign countries.

Receipts of fresh and prepared pineapples in the United States from foreign countries were valued at \$28.5 million in 1968. As shown in Table 9, receipts from foreign sources increased from \$19.0 million in 1965 to \$28.5 million in 1968, or an increase of 50 percent. The Philippine Republic as a source of pineapples has become more important during this period, ranking first in 1968. For the years, 1965 to 1967, Taiwan was the largest among the foreign suppliers. Receipts from Puerto Rico have declined during this period.

#### 5. Other crops

The output of most other field crops has shown a general tendency to decline or remain stable in the past 4 years. In many instances, such as in the production of pigeon peas, mangoes, coconuts, yams, bananas, and tomatoes, the output for the crop year 1967-68 was lower than in the 3 previous years (Tables 1 and 2).

## V. WHPC DIVISIONS SURVEY

### A. Scope of the Survey

In May 1969 the Wage and Hour and Public Contracts Divisions conducted a survey of a selection of farms covered by the definition of the General Agriculture Industry in Puerto Rico. The survey included 218 farms. Some of these farms were also engaged in growing sugarcane. The employment and earnings information of sugarcane workers, however, are not included in this industry but are included in the Sugarcane Industry in Puerto Rico.

The data on earnings and employment obtained from the 218 farms in the May 1969 survey are compared in this report with data obtained from the same farms in a similar survey made in May 1968. As a result, data for two periods are shown. For two classifications--coffee and tobacco--the data relate to a planting season and to a harvesting season, as follows:

	<u>Planting</u>	<u>Harvesting</u>
Coffee	May 1969	November 1968
Tobacco	January 1968	August 1969

Data for the other classifications relate to May 1968 and May 1969:

Dairy farms  
Pineapples  
Tomatoes, peppers, aviculture and floriculture  
Cattle and other agricultural activities

The number of farms included in the survey is shown below by the wage order classification:

<u>Classification</u>	<u>Number of farms</u>
Coffee	66
Tobacco	3
Dairy	125
Pineapple	3
Tomatoes, peppers, aviculture and floriculture	7
Cattle and other agricultural activities	14

## B. Employment and Earnings

### 1. Coffee

Sixty-six coffee farms in the survey employed 1,588 covered workers in the harvesting season in November 1968. The average straight-time hourly earnings of 1,103 of these workers were \$0.78 during the harvesting season. In addition, piece-rate earnings were computed for 474 workers for whom no hourly equivalents were available.

In November 1968, 474 piece workers on 20 farms engaged in coffee harvesting reported piece-rate earnings on the basis of almuds without the hours worked. (An almu is a measure of capacity equal to 20 liters or 18.16 quarts.) The average earnings of these 474 piece workers were \$1.04 per almu. A distribution of the rate per almu by number of workers is as follows:

<u>Rate per almu</u>	<u>Number of workers</u>
All workers	<u>474</u>
\$1.00	355
1.10	78
1.25	41

Fifty of the 66 coffee farms in the survey employed 566 covered workers in the planting season in May 1969. Their average straight-time hourly earnings were \$0.57.

Employment and average straight-time hourly earnings by farm are presented in Table 10a. Distributions of earnings for the harvesting workers are given in Table 11a and for the planting workers in Table 11b. In the November 1968 harvesting season, the applicable wage order minimum was \$0.50 an hour and 17 percent of the 1,103 covered workers for whom hourly earnings were available were paid no more than the applicable minimum. The largest concentration of workers, however, had earnings of \$1.00 and under \$1.025 an hour. These workers accounted for 26.6 percent of the 1,103 harvesting workers. In the May 1969 planting season, the applicable minimum was \$0.53 an hour, and 73 percent of the 566 employees in the survey earned less than \$0.55 an hour. Their earnings were widely scattered, but less than 2 percent of the 566 workers were paid more than \$1.00 an hour.

## 2. Tobacco

Two of the three tobacco farms in the survey employed 10 covered workers in the planting season in August 1968. The applicable wage order minimum was \$0.47 at that time and the average straight-time hourly earnings of these 10 workers were \$0.54 in August 1968. One farm had three workers, each paid \$0.56 an hour. The other farm had seven workers whose average straight-time hourly earnings were \$0.53½. The earnings of each of these workers were as follows:

<u>Average straight-time hourly earnings</u>	<u>Number of workers</u>
\$0.50	4
.56	2
.63	1

In the harvesting season in May 1969, three tobacco farms had 24 covered workers. The applicable wage order minimum was \$0.52 an hour and the average straight-time hourly earnings of these 24 workers were \$0.58. Four of them were paid no more than the wage order minimum of \$0.52. The earnings of each of these 24 workers were as follows:

<u>Average straight-time hourly earnings</u>	<u>Number of workers</u>
\$0.52	4
.56	14
.62½	5
.75	1

Employment and average straight-time hourly earnings by farm are presented in Table 10b.

## 3. Dairy Farms

The 125 dairy farms included in the survey in May 1969 employed 1,789 covered workers, whose average straight-time hourly earnings were \$0.83. Over half, or 55.5 percent of these covered workers, were paid no more than the \$0.70 applicable wage order minimum. The second largest concentration was at the interval of \$0.75 and under \$0.775, with 7.8 percent of the workers earning these amounts. The earnings of the other workers were scattered over a wide distribution.

In May 1968, the same 125 dairy farms employed 1,740 covered workers, whose average straight-time hourly earnings were \$0.72. At that time the applicable wage order minimum was \$0.57 and nearly 40 percent of the workers were paid no more than this minimum. Employment and average straight-time hourly earnings by farm for May 1968 and May 1969 are presented in Table 10c. A distribution of earnings for the covered workers in the 125 farms is given in Table 12a for May 1968 and in Table 12b for May 1969.

#### 4. Pineapple

In May 1969, three pineapple farms in the survey employed 332 covered workers with average straight-time hourly earnings of \$0.72. In May 1968, these same farms employed 160 covered workers with average straight-time hourly earnings of \$1.01. The wide difference in earnings in these two years is due to one pineapple farm. In May 1968, this farm had 60 covered workers whose average straight-time hourly earnings were \$1.56. All except 5 of the 60 workers earned more than \$1.50 an hour. The single largest concentration of earnings was \$1.57 an hour with 31 workers paid that amount. In May 1969, the same farm had 65 covered workers with average straight-time hourly earnings of \$0.75. Only 2 of the 65 workers earned more than \$1.50. The single largest concentration was \$0.65 an hour with 33 workers paid that amount. Employment and average straight-time hourly earnings by farm are presented in Table 10d. A distribution of earnings for the covered workers in the three farms is presented in Table 13a for May 1968 and in Table 13b for May 1969.

#### 5. Tomatoes, Peppers, Aviculture and Floriculture

In May 1969, seven farms included in the Tomatoes, Peppers, Aviculture, and Floriculture Classification had 209 covered workers with average straight-time hourly earnings of \$0.78. Over 45 percent of these workers were paid no more than the applicable wage order minimum of \$0.62 an hour. In May 1968, the same seven farms employed 352 covered workers with average straight-time hourly earnings of \$0.63. At that time, a \$0.55 an hour minimum was applicable to floriculture and a \$0.57 an hour minimum was applicable to the other activities. In May 1968, over 65 percent of the workers were paid less than \$0.57½ an hour.

Employment and average straight-time hourly earnings by farm are presented in Table 10e. A distribution of earnings for the covered workers in the seven farms is presented in Table 14a for May 1968 and in Table 14b for May 1969.

#### 6. Cattle and Other Agricultural Activities

In May 1969, 14 farms were included in the Cattle and Other Agricultural Activities Classification. These farms employed 211 covered workers with average straight-time hourly earnings of \$0.79. The single largest concentration of workers (16.8 percent of the workers in this classification) was at the interval of \$0.65 and under \$0.675. In May 1968, the same 14 farms had 195 covered workers with average straight-time hourly earnings of \$0.74.

Employment and average straight-time hourly earnings by farm are presented in Table 10f. A distribution of earnings for the covered workers in the 14 farms is presented in Table 15a for May 1968 and in Table 15b for May 1969.



### C. Consumer price index

Wage increases in Puerto Rico and in the States in recent years have been offset to some extent by the increase in consumer prices. Between 1964 and 1968 the Consumer Price Index for Wage Earner's Families in Puerto Rico (1957-1959 = 100) has risen by about 13 percent. During this same period, the Consumer Price Index for Urban Wage Earners and Clerical Workers in the United States (1957-1959 = 100) rose by approximately 12 percent. Presented below is a summary of the Consumer Price Indexes for the United States and Puerto Rico from 1964 through August 1969:

(1957-1959 = 100)

Date	Puerto Rico	The 50 States
1964	114.8	108.1
1965	117.5	109.9
1966	121.1	113.1
1967	126.1	116.3
1968	129.6	121.2
August 1969	134.3	128.7

Table 16 presents information on the Consumer Price Index for Puerto Rico and the 50 States, annual averages from 1964 through 1968 and monthly from 1968 through August 1969.

Consumer price indexes in Puerto Rico for all food items as well as for locally produced foods and imported foods, annual averages for 1964 through 1968 and monthly from 1968 through June 1969 are presented in Table 17. A summary of this consumer price index data is shown below:

(1957-1959 = 100)

Date	Foods	Locally produced	Imported
1964	119.9	133.7	110.4
1965	124.0	138.4	114.1
1966	128.2	143.8	117.4
1967	135.2	156.1	120.9
1968	140.2	166.1	123.0
June 1969	145.9	170.5	129.0



#### D. Impact of Higher Minimum Wage Rates:

In order to give some indication of the relative effect of higher minimum wage rates, calculations were made of the percent increase in the hourly wage bill and the cents increase in average hourly earnings which would result from increasing the earnings of workers paid below a specified wage rate up to the specified rate as of May 1969. Increases in the wage bill and average hourly earnings, which may be called--degree of impact--were calculated for the industry.

This provides only an approximation of what would actually happen to wage bills and average hourly earnings as a result of the establishment of higher minimum wage rates because (1) the actual hourly wage bill is constantly changing and (2) the calculations do not include adjustments made in workers' wages which are above the selected higher minimum rate. The results of the calculations are shown in Tables 18a through 23b. Table numbers with the suffix "a", i.e., 18a, 19a, ... 23a, refer to survey data collected during the May 1968 survey. Tables 18b, 19b, ... 23b refer to May 1969 survey data.

By way of illustration, for the coffee classification, if in May 1969 the current minimum rate of \$.53 an hour were raised to \$.60 an hour, this would have increased the straight-time hourly wage bill of the selected coffee farms by 9.5 percent and would have also increased the average hourly earnings by 5 cents an hour, from \$.57 an hour to \$.62 an hour. (Table 18b.) As a further illustration, for the dairy farms classification, if in May 1969 the current minimum rate of \$.70 an hour were raised to \$.80 an hour, this would have increased the straight-time hourly wage bill of the selected dairy farms by \$107.83 or 7.5 percent and would have increased the average hourly earnings by 6 cents, from \$.83 an hour to \$.89 an hour. (Table 20b.)

Degree of impact data of six classifications in the industry are presented in Tables 18a through 23b as follows:

<u>Impact data</u>		
	<u>1968 survey</u>	<u>1969 survey</u>
Coffee farms	Table 18a - page B-46	Table 18b - page B-47
Tobacco farms	Table 19a - page B-48	Table 19b - page B-49
Dairy farms	Table 20a - page B-50	Table 20b - page B-51
Pineapple farms	Table 21a - page B-52	Table 21b - page B-53
Tomato, etc. farms	Table 22a - page B-54	Table 22b - page B-55
Cattle and other farms	Table 23a - page B-56	Table 23b - page B-57

## Appendix A

Current minimum wage rates for agricultural activities in Puerto Rico under Mandatory Decrees of the Commonwealth of Puerto Rico

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1. Mandatory Decree No. 27 The Dairy and Cattle Industry	A-2
2. Mandatory Decree No. 50 The Sugar Industry in its Agricultural Phase . . . . .	A-3
3. Mandatory Decree No. 57 General Agricultural Activities . . . . .	A-6
4. Mandatory Decree No. 58 The Coffee Industry . . . . .	A-7
5. Mandatory Decree No. 69 The Tobacco and Food Crops Industry . . . . .	A-7

1. Dairy and cattle industry

Mandatory Decree No. 27 (fourth revision, 1968) applies to both the agricultural and industrial phase of the Dairy and Cattle Industry. The agricultural phase includes the production of milk and the breeding of bovine cattle for milk or meat. The rates for the agricultural phase of this decree, which became effective on August 31, 1968 and retroactive to July 23, 1968, are as follows:

Dairy farms

Minimum Wage

- |  |                 |
|--|-----------------|
| 1. Driver and Arts<br>and Crafts Workers | \$1.10 per hour |
| 2. Tractor Operator                      | 1.05 per hour   |
| 3. Other Workers                         | 0.65 per hour   |

Cattle raising for  
meat or milk production

- |                  |               |
|------------------|---------------|
| 1. All employees | 0.65 per hour |
|------------------|---------------|

## 2. Sugarcane

Mandatory Decree No. 50 (third revision, 1967) applicable to the Sugar Industry in its Agricultural Phase provides for minimum rates for an eight-hour day for 19 occupational classifications and double time for all hours over eight in any twenty-four hour period. Foremen are entitled to a rate of 10 percent above the minimum applicable to the highest paid job classification of workers under their respective supervision. There is also a provision in the Minimum Wage Law applicable to Mandatory Decree No. 50 which calls for periodic upward adjustments in wage rates as the price of raw sugar increases. 1/ The application of this legal formula as the price of raw sugar recently moved to a higher level, resulted in an overall wage increase of \$1.56 over the basic daily rates fixed by the third revision of Mandatory Decree No. 50. The higher rates were effective for the period between September 18 and October 15, 1969. In the event there is a higher base rate applicable under a collective bargaining agreement, the law requires the \$1.56 increment be added to the higher base rate. The notice released by the Minimum Wage Board of Puerto Rico on September 18, 1969, announcing the wage increase reflecting the change in the price of raw sugar, also indicated that in the event an employer in this industry is covered by the 1966 amendments to the FLSA he is obliged to pay the corresponding \$.65 per hour (\$5.20 for an 8 hour day) if the result is a daily wage higher than the rate reported in the notice.

The minimum daily rates prescribed under the decree and the rates recently adjusted to conform with the new level in the price of raw sugar follow:

<u>Classifications</u>	<u>Basic rates per day established by Decree No. 50 (Effective May 4, 1967)</u>	<u>Rate per day adjusted June 1968</u>	<u>Rate per day adjusted September 1969</u>
<u>I. Manual Agricultural Unit</u>			
1. Cartmen in cultivation work	\$3.20	\$4.565	\$4.76
2. Plow steersmen, cane sowers, end fixers, sugarcane seed spreaders or cutters or arrangers in furrows	3.41	4.775	4.97
3. All work connected with the mixing and application of chemical weed killers by hand	3.48	4.845	5.04
4. Cartmen in harvest work	3.62	4.985	5.18

See footnotes on page A-5

<u>Classifications</u>	Basic rates per day established by Decree No. 50 (Effective May 4, 1967)	Rate per day adjusted June 1968	Rate per day adjusted September 1969
(I. <u>Manual Agricultural Unit</u> )(continued)			
5. Sugarcane cutter (for grinding or planting), seed cutters, and cane pilers including, moreover, sugarcane gatherers behind mechanical loaders	\$3.41	\$4.775	\$4.97
6. Portable track handlers, loaders, and railroad or portable track wagon drivers ("lanceros") and conductors	3.62	4.985	5.18
7. Cane dumpers or loaders of cane carts or trucks or other vehicles	3.53	4.895	5.09
8. Ditch diggers, ditch cleaners, and water irrigators (for the first seven (7) hours of work performed in any twenty-four-hour period)	3.41	4.775	4.97
9. Foremen	10% <u>2/ 3/</u>	<u>4/</u>	<u>5/</u>
10. Other workers	3.14	4.505	4.70

## II. Agricultural Machinery Unit

1. All operators of mechanical equipment such as tractors, tractor plows, fertilizing machines, herbicide spraying machines, and trucks, including also heavy mechanical equipment	5.45 <u>3/</u>	6.815	7.01
2. Crane and irrigating pump operators	3.56 <u>3/</u>	4.925	5.12

See footnotes on page A-5

Sugarcane (concluded)

<u>Classifications</u>	Basic rates per day established by Decree No. 50 (Effective May 4, 1967)	Rate per day adjusted June 1968	Rate per day adjusted September 1969
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II. Agricultural Machinery Unit (concluded)

3. Principal operators of mechanical loaders, harvesters and sowers	\$7.25 <u>3/</u>	\$8.615	\$8.81
4. Foremen	10% <u>2/ 3/</u>	<u>4/</u>	<u>5/</u>
5. Other workers	3.14	4.505	4.70

III. Repair Shop Unit

1. Carpenters, masons, mechanics, painters, electricians, and other arts and trade workers	5.56 <u>3/</u>	6.925	7.12
2. Arts and trades helpers	4.32 <u>3/</u>	5.685	5.88
3. Foremen	10% <u>2/ 3/</u>	<u>4/</u>	<u>5/</u>
4. Other worker	3.14 <u>3/</u>	4.505	4.70

1/ For each (10) cents or fraction thereof that the price of raw sugar (duty paid basis, delivered) averages more than \$5.50 per one hundred pounds, for the four-week period immediately preceding the four-week period during which the work is performed, a wage increase of 6.5 cents shall be paid over the basic rates prescribed for each day of work.

2/ A minimum basic wage rate of 10 percent over the minimum basic wage rate of the classification of the worker with the highest minimum basic wage rate supervised by the foremen.

3/ Made retroactive to February 23, 1967.

4/ An increase of \$1.365 over the amount established by the formula referred to under footnote 2 above.

5/ An increase of \$1.56 over the amount established by the formula referred to under footnote 2 above.

### 3. General agricultural activities

Mandatory Decree No. 57 (fourth revision, 1969) applicable to the General Agricultural Activities Industry covers most of the agricultural activities not specifically named in the four other decrees. It includes, for example, growing of pineapples; raising of poultry (aviculture); raising of cattle, swine, goats, horses or sheep (except bovine cattle and race horses); and the cultivation of flowers and ornamental plants. This mandatory decree covers the following classifications and hourly rates.

	<u>Minimum hourly rate</u>	<u>Effective date</u>
<u>Pineapples</u>		
Driver, tractor operator or operator of any other agricultural motor machi- nery, arts and crafts worker, and any other similar occu- pation	\$ .95	July 7, 1969
All other workers	.66	July 7, 1969
<u>Aviculture</u>		
All workers	.65	July 7, 1969
<u>Floriculture</u>		
All workers	.63	July 7, 1969
<u>Citron and all other agricul- tural workers</u>		
All workers	.57	July 7, 1969



#### 4. Coffee

Mandatory Decree No. 58 (fourth revision, 1967) applicable to the Coffee Industry in its Agricultural Phase, sets forth the following hourly and piece rate classifications:

	<u>Minimum rate</u>	<u>Effective date</u>
Coffee pickers	\$1.00 per almod 1/	April 3, 1967
All other workers	.50 per hour	April 3, 1967

#### 5. Tobacco and food crops

Mandatory Decree No. 69 (second revision, 1968) applicable to the Tobacco and Food Crops Industry includes the tobacco industry in its agricultural phase as well as raising of grains, vegetables, and cereals. This mandatory decree covers the following piece and hourly rates:

	<u>Minimum rate</u>	<u>Effective date</u>
<u>Tobacco in its agricul- tural phase</u>		
1. Tobacco stringing by hand	\$ .015 per lath	May 28, 1969 3/
2. All other operations	.63 per hour	May 28, 1969 3/
<u>Food crops</u>		
1. Tomatoes or peppers (fields of 25 cuerdas or over) 2/	.60 per hour	May 28, 1969 3/
2. Other food crops	.55 per hour	May 28, 1969 3/

---

1/ An almod is a measure of capacity equivalent to two decaliters or twenty liters.

2/ A cuerda is a Puerto Rican unit of land measure equal to 0.97 acres.

3/ Retroactive to January 28, 1969.

Appendix B

Statistical Tables

B-1

(WH70-299)

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# The General Agriculture Industry in Puerto Rico

Table 1 . Estimated Production of Agricultural Commodities, Fiscal Years  
1964-65 to 1967-68 1/

Commodity	Unit	1964-65	1965-66	1966-67	1967-68 <u>2/</u>
<b>Principal crops:</b>					
Sugarcane	1,000 tons	8,807	9,465	8,160	6,530
Tobacco	1,000 cwt.	379	165	124	112
Coffee	1,000 cwt.	375	300	234	325
<b>Livestock products:</b>					
Milk	1,000 qts.	358,286	363,264	369,883	381,056
Eggs	1,000 doz.	19,330	20,491	20,929	21,159
Beef	1,000 cwt. <u>3/</u>	405	445	447	426
Pork	1,000 cwt. <u>3/</u>	268	270	270	279
Poultry	1,000 cwt. <u>3/</u>	229	238	245	250
<b>Legumes:</b>					
Beans, dry	1,000 cwt.	53	NA	NA	NA
Pigeon peas	1,000 cwt.	93	110	94	98
<b>Fruits:</b>					
Grapefruits	millions	19	15	12	13
Pineapples	1,000 tons	80	73	72	62
Oranges	millions	189	205	165	172
Avocados	millions	26	25	25	26
Citrons	1,000 cwt.	71	70	62	64
Mangoes	millions	65	55	60	54
Coconuts	millions	14	13	13	15
Others	--	--	--	--	--
<b>Starchy vegetables:</b>					
Sweet potatoes	1,000 cwt.	289	315	285	230
Cassava	1,000 cwt.	129	120	125	110
Taniers	1,000 cwt.	356	427	400	300
Yams	1,000 cwt.	298	300	315	280
Dasheens	1,000 cwt.	97	115	125	100
Plantains	millions	189	246	240	215
Bananas	millions	713	784	715	702
Breadfruit	millions	25	23	18	17

See footnotes at end of table.

# The General Agriculture Industry in Puerto Rico

Table 1 . Estimated Production of Agricultural Commodities, Fiscal Years 1964-65 to 1967-68 1/ (concluded)

Commodity	Unit	1964-65	1965-66	1966-67	1967-68 <u>2/</u>
Other vegetables:					
Tomatoes	1,000 cwt.	476	373	318	311
Peppers	1,000 cwt.	85	94	95	92
Cabbage	1,000 cwt.	40	45	50	55
Squash (pumpkin)	1,000 cwt.	340	320	300	300
All others	---	--	--	--	--
Cereals:					
Corn <u>4/</u>	1,000 cwt.	103	85	70	70

NA: Not available

cwt: Hundredweight

1/ Quantities used for feed and fodder have been excluded

2/ Preliminary

3/ Carcass weight

4/ Represents 40 percent of the total production

Source: Commonwealth of Puerto Rico, Department of Agriculture and Commerce: Facts and Figures on Puerto Rico's Agriculture for Fiscal 1965 to 1967.

# The General Agriculture Industry in Puerto Rico

Table 2. Estimated Farm Value of Agricultural Commodities, Fiscal Years 1964-65 and 1967-68 <sup>1/</sup>

[In thousands]

Commodity	1964-1965	1965-1966	1966-1967	1967-1968 <sup>2/</sup>
<u>Total value</u>	<u>\$279,571</u>	<u>\$269,000</u>	<u>\$265,939</u>	<u>\$267,541</u>
Principal crops:	124,671	106,748	108,673	94,833
Sugar cane <sup>3/</sup>	88,478	84,148	85,716	69,404
Tobacco	14,495	5,322	3,862	3,632
Coffee	21,698	17,278	19,062	21,797
Livestock products:	103,870	108,523	110,632	117,536
Milk	56,553	57,448	58,571	65,205
Eggs	10,986	11,822	11,798	12,057
Beef	16,712	18,857	19,369	18,740
Pork	9,339	9,490	9,745	10,328
Poultry	10,280	10,906	11,151	11,206
Legumes:	3,007	NA	NA	NA
Beans, dry	983	NA	NA	NA
Pigeon peas	2,024	2,200	2,444	2,535
Fruits:	8,315	7,995	8,157	7,906
Grapefruits	335	295	271	281
Pineapples	3,949	3,587	3,774	3,249
Oranges	1,285	1,466	1,320	1,359
Avocados	1,046	995	1,109	1,209
Citrons	117	210	202	208
Mangoes	374	308	357	343
Coconuts	615	634	624	757
Other	534	500	500	500
Starchy vegetables:	17,695	17,850	17,563	20,941
Sweet potatoes	1,711	1,780	1,710	1,725
Cassava	422	360	406	412
Tapiers	2,598	2,562	2,500	3,300
Yams	1,714	1,800	1,890	2,296
Dasheens	340	362	375	525
Plantains	6,284	6,150	6,300	7,955
Bananas	4,064	4,318	3,932	4,303
Breadfruit	562	518	450	425

See footnotes at end of table

# The General Agriculture Industry in Puerto Rico

Table 2. Estimated Farm Value of Agricultural Commodities, Fiscal Years 1964-65 to 1967-68 <sup>1/</sup> (concluded)

[In thousands]

Commodity	1964-1965	1965-1966	1966-1967	1967-1968 <sup>2/</sup>
Other vegetables:	\$6,957	\$6,203	\$8,919	\$9,161
Tomatoes	1,583	1,260	1,135	1,151
Peppers	850	935	1,140	1,242
Cabbage	200	202	250	247
Squash (pumpkin)	1,174	1,056	1,200	1,236
All other	3,150	2,750	2,750	2,750
Cereals:				
Corn	623	468	420	420
Other farm products <sup>1/</sup>	<u>7,674</u>	<u>3,675</u>	<u>4,098</u>	<u>4,192</u>
P.M.A. benefit payments (except sugarcane) <sup>5/</sup>	<u>7,278</u>	<u>5,122</u>	<u>5,455</u>	<u>9,069</u>

NA: Not available

<sup>1/</sup> Excludes the value of farm commodities used for feed and fodder.

<sup>2/</sup> Preliminary

<sup>3/</sup> Includes value of raw sugar, molasses and Sugar Act Payments.

<sup>4/</sup> Includes charcoal, wood, cotton, ornamentals, honey and other miscellaneous farm products

<sup>5/</sup> Production and marketing administration payments are for calendar years.

Source: Commonwealth of Puerto Rico, Department of Agriculture and Commerce, Facts and Figures on Puerto Rico's Agriculture for Fiscal 1965 to 1967.

The General Agriculture Industry in Puerto Rico

Table 3. Quantity of Shipments of Selected Agricultural Products from Puerto Rico to Other Parts of the United States, 1965-1968

[Thousand pounds]

Schedule:						
P	Commodity	1965	1966	1967	1968	
No.						
	Meat and edible offals, including poultry:					
01100	Fresh, chilled or frozen	231	2	-	-	
01200	Dried, salted or smoked	20	4	17	-	
01300	Meat and meat products, nec, prepared or preserved	94	40	7	-	
02400	Cheese and curd	199	193	282	361	
02900	Dairy products and eggs, nec.	73	19	-	-	
05130	Bananas and plantains, fresh	616	331	219	12	
05160	Citrus fruits, fresh	-	-	-	-	
05181	Pineapple, fresh	40,013	34,545	37,590	41,817	
05182	Coconuts, in the shell	9,534	9,733	8,155	5,861	
05185	Fruits, nec, fresh; nuts, nec, fresh or dried	1,310	897	848	563	
05200	Fruit, dried, including artificially dehydrated	7	-	1	3	
05351	Pineapple juice, canned, not frozen 1/	630	697	43	56	
05381	Pineapples, prepared or preserved, in airtight containers	9,933	10,488	10,493	6,838	
05384	Citrons, in brine	2,713	2,108	1,953	2,573	
05420	Beans, peas, and other leguminous vegetables, dried	726	270	179	248	
05440	Tomatoes, fresh	31	-	-	-	
05491	Yams, fresh	4,130	4,500	2,851	2,969	



# The General Agriculture Industry in Puerto Rico

Table 3. Quantity of Shipments of Selected Agricultural Products from Puerto Rico to Other Parts of the United States, 1965-1968 (concluded)

[Thousand pounds]

Schedule:		:	:	:	:	:
P	Commodity	:	1965	:	1966	:
No.		:	:	:	:	:
05493	Tanniers, fresh		4,874		5,110	2,753
05495	Dasheens, fresh		1,810		1,927	1,635
05497	Squash, fresh		430		564	274
05498	Mexican fruit (chayotes) fresh		306		346	365
05499	Vegetables, nec, fresh or dried		1,210		699	793
06110	Sugar, raw		1,330,899		968,535	971,848
06120	Sugar, refined		259,479		291,958	306,875
07123	Coffee, crude		12,203		2,248	1,014
07125	Coffee, roasted, extracts, essences, concentrates and similar preparations					
			4		3	1
						-

Notes: Dash means zero or less than 500.  
nec - Not elsewhere classified  
NA - Not applicable

1/ The quantity of pineapple juice, canned, not frozen, is in thousands of gallons.

Source: U. S. Bureau of the Census: U. S. Trade with Puerto Rico and U. S. Possessions, FT 800, Annual Reports, 1965-1968.

# The General Agriculture Industry in Puerto Rico

Table 4. Value of Shipments of Agricultural Products from Puerto Rico to Other Parts of the United States, 1965-1968

[Thousand dollars]

Schedule : P : No. :	Commodity :	1965 :	1966 :	1967 :	1968 :
	<b>Total</b>	<b>\$126,311</b>	<b>\$101,365</b>	<b>\$110,163</b>	<b>\$84,706</b>
	Meat and edible offals, including poultry;				
01100	Fresh, chilled, or frozen	\$ 86	\$ 91	-	-
01200	Dried, salted or smoked	5	91	\$ 14	-
01300	Meat and meat products, nec, prepared or preserved	25	16	6	
02400	Cheese and curd	113	108	158	\$ 198
02900	Dairy products and eggs, nec.	55	14	24	436
05130	Bananas and plantains, fresh	53	27	20	1
05160	Citrus fruits, fresh	-	-	-	-
05181	Pineapple, fresh	2,340	2,123	2,264	2,556
	Coconuts, in the shell	391	402	372	313
05185	Fruits, nec, fresh, nuts, nec, fresh or dried	168	136	123	90
05200	Fruit, dried including artificially dehydrated	21	-	3	14
05351	Pineapple juice, canned, not frozen	359	384	22	30
05381	Pineapples, prepared or preserved, in air-tight containers	1,456	1,489	1,346	1,030
05384	Citrons, in brine	251	207	207	278
05420	Beans, peas and other leguminous vegetables, dried	194	65	48	73
05440	Tomatoes, fresh	4	-	-	-
05491	Yams, fresh	508	537	450	594

See notes at end of table.

# The General Agriculture Industry in Puerto Rico

Table 4. Value of Shipments of Agricultural Products from Puerto Rico to Other Parts of the United States, 1965-1968 (concluded)

[Thousand dollars]

Schedule:		:	:	:	:	:
P	Commodity	:	1965	:	1966	:
No.		:	:	:	:	:
		:	:	:	:	:
05493	Tanniers, fresh	:	\$ 494	:	\$ 430	:
05495	Dasheens, fresh	:	185	:	133	:
05497	Squash, fresh	:	38	:	53	:
05498	Mexican fruit	:		:	28	:
	(chayotes) fresh	:	32	:	36	:
05499	Vegetables, nec,	:		:		:
	fresh or dried	:	219	:	134	:
06110	Sugar, raw	:	91,412	:	67,994	:
06120	Sugar, refined	:	23,003	:	26,174	:
07123	Coffee, crude	:	4,897	:	901	:
07125	Coffee, roasted,	:		:	366	:
	extracts,	:		:		:
	essences, con-	:		:		:
	centrates and	:		:		:
	similar prepara-	:		:		:
	tions	:	3	:	3	:
		:		:	91	:
		:		:		:

Notes: Dash means zero or less than \$500.  
NEC - not elsewhere classified

Source: U. S. Bureau of the Census: U. S. Trade with Puerto Rico and U. S. Possessions, FT-800, Annual Report 1965-1968.

The General Agriculture Industry in Puerto Rico

Table 5. Quantity and Value of Shipments of Selected Agricultural Products from Puerto Rico to Other Parts of the United States, First 6 Months of 1968 and 1969.

[In thousand pounds and dollars]

Schedule: P No.	Commodity	Quantity		Value	
		First 6 months		First 6 months	
		1968	1969	1968	1969
Total		573,681	437,867	\$46,927	\$36,982
Meat and edible offals including poultry:					
01100	Fresh, chilled or frozen	-	-	-	-
01200	Dried, salted or smoked	-	-	-	-
01300	Meat and meat products, nec--prepared or preserved	-	-	-	-
02400	Cheese and curd	175	108	97	60
02900	Dairy products and eggs, nec.	NA	NA	352	5
05130	Fruits and fruit products Bananas and plantains, fresh	7	7	-	-
05160	Citrus fruits, fresh	-	-	-	-
05181	Pineapple, fresh	26,189	27,838	1,627	1,634
05182	Coconuts, in the shell	3,408	2,373	176	125
05185	Fruits, nec., fresh, nuts, nec., fresh or dried	325	426	52	64
05200	Fruit, dried, incl. artificially dehydrated	-	-	-	-
05351	Pineapple juice, canned, not frozen 1/	36	31	19	19
05381	Pineapples, prepared or preserved in airtight containers	3,738	3,814	697	538
05384	Citrons, in brine	921	908	113	95
05420	Beans, peas and other leguminous vegetables, dried	109	482	29	150
05440	Tomatoes, fresh	-	-	-	-
05491	Yams, fresh	847	1,251	191	268

See notes at end of table.

The General Agriculture Industry in Puerto Rico

Table 5. Quantity and Value of Shipments of Selected Agricultural Products from Puerto Rico to Other Parts of the United States, First 6 Months of 1968 and 1969 (concluded)

/In thousand pounds and dollars/

Schedule P No.	Commodity	Quantity		Value	
		First 6		First 6	
		months		months	
		1968	1969	1968	1969
05493	Tanniers, fresh	78	57	\$ 13	\$ 10
05495	Dasheens, fresh	880	564	133	89
05497	Squash, fresh	184	46	19	8
05498	Mexican fruit (chayotes) fresh	168	127	14	23
05499	Vegetables, nec--fresh or dried	443	193	105	39
06110	Sugar, raw	417,297	271,605	31,488	21,374
06120	Sugar, refined	117,860	127,490	11,452	12,154
07123	Coffee, crude	1,013	546	351	328
07125	Coffee, roasted, extracts, essences, concentrates and similar preparations	-	-	-	-
	Leaf tobacco, except cigar, grown in Puerto Rico				
12111	Stemmed	161	96	294	162
12113	Unstemmed	69	1,549	42	1,123
12115	Tobacco, nec, including stems, trimmings, scrap, cuttings, and siftings- unmanufactured, grown in Puerto Rico	2,394	2,094	1,514	1,290

Notes: Dash means zero or less than 500.  
nec - Not elsewhere classified  
NA - Not applicable

1/ The quantity of pineapple juice canned, not frozen, is reported in thousands of gallons.

Source: U. S. Bureau of the Census: U. S. Trade with Puerto Rico and U. S. Possessions, FT-800, monthly issues, January-June, 1968 and 1969.

# The General Agriculture Industry in Puerto Rico

Table 6. Total Labor Force and Employment in Selected Agricultural Groups, 1966-1969

(Thousands of persons 14 years of age and over)

Years	Labor: force	Employed	Total	Sugarcane farms	Tobacco farms	Coffee farms	Other farms	1/
1966 2/	778	682	102	34	3/	18	44	
1967	789	693	95	28	3/	20	42	
1968	802	709	88	24	3	18	42	
1968								
January	809	691	92	16	6	22	47	
February	808	716	108	43	6	15	45	
March	806	722	111	49	10	15	38	
April	790	700	94	40	7	13	34	
May	791	708	90	37	3	11	38	
June	814	718	88	28	3/	12	47	
July	805	706	81	18	3/	13	49	
August	787	696	74	16	3/	15	43	
September	795	706	75	14	3/	20	41	
October	809	718	81	11	3/	28	42	
November	806	716	80	11	3/	26	41	
December	806	717	83	10	3	24	46	
1969								
January	819	713	84	17	4	20	43	
February	814	727	88	27	6	13	43	
March	809	790	96	41	7	12	36	
April	814	736	95	41	6	11	38	
May	809	740	90	36	3/	11	41	
June								

NOTE: The Puerto Rico Bureau of Labor Statistics revised 1966 and 1967 data to reflect the latest population estimate. Data for 1965 and previous years are therefore not comparable with the most current information.

1/ Includes pineapple, dairies, minor crops, forestry, fishing, etc.

2/ Includes only 10 months of 1966.

3/ Sample too small for reliable estimate.

Source: Puerto Rico Department of Labor, Bureau of Labor Statistics, Employment and Unemployment in Puerto Rico, various issues 1966-1968.

# The General Agriculture Industry in Puerto Rico

Table 7. Coffee, Tobacco, and Pineapples: Area Harvested, Production, Yield per Cuerda and Farm Value, 1960-1968

Product and year	Area harvested (cuerdas) <sup>1/</sup>	Production (thousand cwt.s.)	Yield (lbs./cuerda) <sup>1/</sup>	Farm value (\$1,000)
<b>Coffee:</b>				
1960-61	160,000	260	162	\$14,876
1961-62	160,000	350	219	20,279
1962-63	160,000	395	247	22,807
1963-64	160,000	315	197	18,205
1964-65	160,000	375	234	21,698
1965-66	160,000	300	188	17,278
1966-67	160,000	284	178	19,062
1967-68 <sup>2/</sup>	160,000	325	203	21,797
<b>Tobacco:</b>				
1960-61	28,500	275	980	9,592
1961-62	27,000	307	1,140	11,598
1962-63	28,500	343	1,203	13,378
1963-64	30,000	322	1,072	13,163
1964-65	30,000	379	1,264	14,493
1965-66	18,000	165	920	5,308
1966-67	9,500	123	1,290	3,879
1967-68 <sup>2/</sup>	7,800	112	1,440	3,632
<b>Pineapples:</b>				
1961	4,155	1,109	26,700	2,576
1962	3,699	1,136	30,800	2,538
1963	4,235	1,294	30,600	2,854
1964	4,423	1,319	29,800	3,019
1965	4,980	1,602	32,180	3,949
1966	4,788	1,450	30,300	3,587
1967	4,850	1,439	28,020	3,774

<sup>1/</sup> One cuerda equals 0.97 acre.

<sup>2/</sup> Preliminary

Source: Commonwealth of Puerto Rico, Department of Agriculture, Facts and Figures on Puerto Rico's Agriculture, 1967.



# The General Agriculture Industry in Puerto Rico

Table 8 . Value of United States Receipts of Coffee from Puerto Rico and Foreign Countries, 1965-1969

(\$1,000)

Product and place: of origin	: 1965	: 1966	: 1967	: 1968	: 1st 6 months 1968	: 1969 <sup>1/</sup>
<b>Total U.S. receipts</b>						
of coffee, raw, green and roasted	<u>\$1,065,422</u>	<u>\$1,069,735</u>	<u>\$964,626</u>	<u>\$1,144,124</u>	<u>\$558,999</u>	<u>\$397,991</u>
Puerto Rico	<u>4,900</u>	<u>904</u>	<u>367</u>	<u>624</u>	<u>351</u>	<u>329</u>
Foreign countries:	<u>1,060,522</u>	<u>1,068,831</u>	<u>964,260</u>	<u>1,143,500</u>	<u>558,648</u>	<u>397,662</u>
Brazil	303,385	327,681	278,354	372,302	179,453	125,210
Columbia	199,593	163,784	163,236	162,314	75,965	58,495
Mexico	65,329	57,427	49,441	64,986	35,294	22,912
Angola	45,865	50,132	59,387	71,608	36,941	22,454
Guatemala	50,962	59,333	34,468	35,075	14,046	16,525
Uganda	39,146	50,428	42,308	49,301	25,540	19,180
Ethiopia	59,747	40,664	47,535	43,280	30,235	21,168
Salvador	40,207	31,253	40,469	28,228	11,337	11,081
Other countries	255,288	288,129	249,062	316,406	149,837	100,096
<b>Total U.S. receipts</b>						
of coffee, raw and green	<u>1,062,934</u>	<u>1,068,126</u>	<u>963,045</u>	<u>1,140,194</u>	<u>557,574</u>	<u>397,263</u>
Puerto Rico	<u>4,897</u>	<u>901</u>	<u>366</u>	<u>624</u>	<u>351</u>	<u>329</u>
Foreign countries:	<u>1,058,037</u>	<u>1,067,225</u>	<u>962,679</u>	<u>1,139,570</u>	<u>557,243</u>	<u>396,934</u>
Brazil	303,346	327,547	278,286	369,813	178,762	125,025
Columbia	198,602	163,499	163,205	162,314	75,965	58,494
Mexico	64,232	56,964	48,411	63,931	34,820	22,995
Angola	45,865	50,132	59,387	71,608	36,941	22,454
Guatemala	50,962	59,333	34,468	35,075	14,046	16,525
Uganda	39,146	50,428	42,308	49,301	25,540	19,180
Ethiopia	59,747	40,664	47,535	43,280	30,235	21,168
Salvador	40,207	31,253	40,469	28,228	11,337	11,081
Other countries	255,839	287,405	248,610	316,020	149,597	100,012

See footnotes at end of table.

# The General Agriculture Industry in Puerto Rico

Table 8. Value of United States Receipts of Coffee from Puerto Rico and Foreign Countries, 1964-1969 (concluded)

(\$1,000)

Product and place of origin	: 1965	: 1966	: 1967	: 1968	: <u>1st 6 months</u> 1968	: <u>1969</u> 1/
<u>Total U.S. receipts of coffee roasted or processed</u>	<u>2,498</u>	<u>1,609</u>	<u>1,581</u>	<u>3,930</u>	<u>1,405</u>	<u>728</u>
Puerto Rico	<u>3</u>	<u>1</u>	--	--	--	--
Foreign countries:	<u>2,495</u>	<u>1,606</u>	<u>1,580</u>	<u>3,930</u>	<u>1,405</u>	<u>728</u>
Brazil	39	134	68	2,489	691	185
Columbia	991	284	31	--	--	1
Mexico	1,006	463	1,031	1,055	473	458
Other countries	460	725	452	386	241	84

Note: Figures may not add to totals due to rounding.

1/ Preliminary.

Source: U.S. Bureau of the Census: United States Trade with Puerto Rico and with United States Possessions, Report FT 800, Annuals 1965 to 1968 and monthly publications for June 1968 and 1969, and U.S. Imports, TSUSA, Commodity by Country, Report FT 246, December 1965 to 1968 and Report IM 146 June 1968 and 1969.

# The General Agriculture Industry in Puerto Rico

Table 9 . Value of United States Receipts of Pineapples from Puerto Rico and Foreign Countries, 1965-1969

[In thousands]

Product and place of origin	1965	1966	1967	1968	1st 6 months 1968	1969 1/
<u>Total U.S. Receipts of Fresh and Prepared Pineapples</u>	<u>\$ 23,161</u>	<u>\$ 24,289</u>	<u>\$ 25,657</u>	<u>\$ 32,140</u>	<u>\$ 16,707</u>	<u>\$ 17,199</u>
Puerto Rico	4,154	3,996	3,633	3,616	2,218	2,270
Foreign countries:	19,007	20,293	22,024	28,524	14,489	14,929
Taiwan	7,459	8,370	8,452	8,432	4,041	3,716
Philippine Republic	4,101	3,605	5,109	8,818	4,517	5,635
Mexico	3,892	4,490	4,040	5,025	2,839	2,006
Malaysia	2,829	2,511	2,501	3,241	1,831	1,329
All other countries	726	1,316	1,922	3,008	1,261	2,253
<u>Total U.S. Receipts of Fresh Pineapples</u>	<u>2,971</u>	<u>2,679</u>	<u>2,589</u>	<u>3,015</u>	<u>1,924</u>	<u>2,261</u>
Puerto Rico	2,340	2,123	2,264	2,556	1,626	1,633
Foreign countries:	631	555	325	459	298	628
Mexico	572	501	284	300	243	336
All other countries	59	55	40	159	55	292
<u>Total U.S. Receipts of Prepared Pineapples</u>	<u>20,190</u>	<u>21,611</u>	<u>23,068</u>	<u>29,125</u>	<u>14,783</u>	<u>14,938</u>
Puerto Rico	1,814	1,873	1,369	1,060	592	637
Foreign countries:	18,376	19,738	21,700	28,065	14,191	14,301
Taiwan	7,459	8,370	8,452	8,432	4,041	3,716
Philippine Republic	4,101	3,605	5,109	8,818	4,517	5,635
Mexico	3,320	3,990	3,756	4,725	2,596	1,670
Malaysia	2,829	2,511	2,501	3,241	1,831	1,329
All other countries	667	1,261	1,881	2,849	1,206	1,951

Notes: Figures may not add to totals due to rounding.

1/ Preliminary

Source: U.S. Bureau of the Census: United States Trade with Puerto Rico and with United States Possessions, Report FT-800, Annals 1965 to 1968 and monthly publications for June 1968 and 1969; and U.S. Imports, TRUS, Commodity by Country, Report FT-246, December 1965 to 1968 and Report II-246, June 1968 and 1969.

# The General Agriculture Industry in Puerto Rico

Table 10a. Number of Employees and Average Hourly Earnings in 66 Coffee Farms in Puerto Rico, November 1968 and May 1969

Name of farm and location	November 1968				May 1969	
	: Employment :		: Average :		: Employment :	
	: (Harvesting season) :		: hourly earnings :		: hourly earnings :	
	:		:		:	
<u>66 Coffee Farms</u>	<u>1,103</u>	<u>(474)</u>	<u>\$0.78</u>	<u>(NA)</u>	<u>566</u>	<u>\$0.57</u>
Hiram Quinones Quinones, Mayaguez	11		\$0.74		0	-
Franz Philippi, Mayaguez	12		.82		3	.53
F. Carreras & Hnos., Mayaguez	8	(28)	.63	(1/)	23	.54
Jose Perez Cortes, Arecibo	5		.62		13	.64
Soller Sugar Co., Inc., Arecibo	89		.94		48	.58
Jorge Lucas P. Valdivieso, Inc., Adjuntas	12	(39)	.52	(2/)	13	.56
Sucn. Adolfo Antompietri Casiano, San German	18		.59		0	-
Jose Cesario Cabrero Gonzalez, San Sebastian	6		.72		1	.53
Alfredo Abreau Roman, Adjuntas	24		.83		4	.69
Jose J. Francisco, Yauco	4		.50		2	.53
Bartolo Frontera, Yauco	13		.53		13	.53
Jose Velez Ramos, Yauco	26		.63		4	.58
Jose M. Pietri, Yauco	22		.59		12	.54
Aurelio Jimenez, Aguada	0	(7)	-	(3/)	3	.80
Luis Negron Lopez, Sabana Grande	32		.56		0	-
J. Gualberto Busigo, Sabana Grande	64		.64		0	-
Delfin Rodriguez Carlo, Sabana Grande	11		.76		15	.56

The General Agriculture Industry in Puerto Rico

Table 10a. Number of Employees and Average Hourly Earnings in 66 Coffee Farms in Puerto Rico, November 1968 and May 1969 (continued)

Name of farm and location	November 1968			May 1969	
	Employment	Average hourly earnings	(Harvesting season)	Employment	Average hourly earnings (Planting season)
Felicito Franceschini, Guayanilla	2	(29)	\$.51 (4/)	4	\$.53
Jesus M. Mercado, Mayaguez	15		.63	0	-
Jose A. Ramirez Capestany, Mayaguez	6		.63	0	-
Julio Canales - Valldejuly, Adjuntas	16		.77	13	.56
Gerardo Jorge, Ponce	24		.88	1	.94
Norberto Arbona, Maricao	13		.60	4	.58
Luis A. Rivera Delgado, Adjuntas (Lares Road)	19		.91	13	.87
(Ponce Road)	5		.75	5	.75
Emilio Davila Canales, Cayey	16		.64	6	.66
Francisco Levy, Hijo, Lares	16	(31)	.64 (5/)	18	.65
Salvador Rullan Mayol, Utuado	68		.80	18	.55
Sucn. Jose Garcia Gomez, Ciales	5		.57	7	.56
Sucn. Lisandro Lugo Penchi San German	20		.50	0	-
Jose E. Trabal Fabregas, Anasco	3		.68	1	.53
Jesusa Aponte de Chaves, San Sebastian	1	(14)	.72 (6/)	2	.74
Antonio Soto Matias, Lares	4	(68)	.61 (7/)	56	.56
Lorenzo Anaton-Ponton, Ponce	7		.73	3	.63

# The General Agriculture Industry in Puerto Rico

Table 10a. Number of Employees and Average Hourly Earnings in the 66 Coffee Farms in Puerto Rico, November 1968 and May 1969 (continued)

Name of farm and location	November 1968			May 1969		
	Employment	Average		Employment	Average	
		hourly			hourly	
		earnings			earnings	
	(Harvesting season)		(Planting season)			
R. E. & V. Emanuelli, Coamo	17		\$ .63	1		\$ .75
Pedro Oliver, Ponce	23		.80	8		.56
Pedro Del Rio Gonzalez, Jayuya	0	(6)	- ( <u>8</u> /)	7		.53
Miguel A. Sastre, Jayuya	0	(23)	- ( <u>2</u> /)	0		-
Lauraga & Co. Sucrs. S. en C. San Sebastian	40		.89	4		.55
Arcadio Estrada Linares, San Sebastian	12		.53	3		.53
Arcadio Estrada Velez, San Sebastian	2		.52	0		-
Carlos J. Toro Acosta, San Sebastian	2		.50	0		-
Blasco Santiago Santiago, San Sebastian	8		.50	0		-
Rafael Aymat Cardona, San Sebastian	9		.50	0		-
Hiram Forestier Cuerda, Mayaguez	0	(9)	( <u>10</u> /)	0		-
Aminta Martinez de Romaguera, Mayaguez	2	(19)	.50( <u>11</u> /)	1		.53
Jose Rafael Ferrari & Mario A. Oronoz Font San Sebastian	45		.74	0		-

# The General Agriculture Industry in Puerto Rico

Table 10a. Number of Employees and Average Hourly Earnings in 66 Coffee Farms in Puerto Rico, November 1968 and May 1969 (concluded)

Name of farm and location	November 1968		May 1969	
	Employment	Average	Employment	Average
		hourly earnings		hourly earnings
	(Harvesting season)		(Planting season)	
Jorge Llinas, Yauco	2 (23)	\$.53 ( <u>12</u> /)	10	\$ .54
Juan Adrover, Yauco	3 (30)	.61 ( <u>13</u> /)	15	.55
Filomena Matos, Maricao	6 (45)	.76 ( <u>14</u> /)	19	.54
Juan A. Lartegant, Yauco	0 (29)	- ( <u>15</u> /)	7	.53
S. Noel Molini, Maricao	6 (22)	.54 ( <u>16</u> /)	16	.57
Salvador Oliver, Lares	3 (15)	.58 ( <u>17</u> /)	9	.53
G. Llinas & Co., Maricao	6 (11)	.53 ( <u>18</u> /)	17	.54
Jose Llinas, Maricao	1 (9)	.53 ( <u>19</u> /)	15	.54
Jose Bibiloni Pou, Jayuya	36	1.00	11	.53
Sucn. Joaquin Rodriguez Jayuya	21	1.00	21	.53
Labor Agricultural, Inc., Jayuya	105	1.00	36	.53
Aureliano Juan Soto, Angeles	12	1.10	12	.60
Jaye J. Frau Frau, Utuado	27	.72	8	.56
Joaquin Rosello Ferrer, Ciales	55	.99	13	.54
Fernando J. Carbonell, Utuado	9	.95	8	.54
Gustavo A. Aviles, San Sebastian	6	.50	0	-
Santiago A. La Torre Bosque, San Sebastian	15	.63	0	-
Joaquin Mattei, Adjuntas	19	.62	16	.60
Manuel Lozano Vaquero, Lares	14 (17)	.72 ( <u>20</u> /)	4	.53

See footnotes at end of table



The General Agriculture Industry in Puerto Rico

Table 10a. Number of Employees and Average Hourly Earnings in 66 Coffee Farms in Puerto Rico, November 1968 and May 1969

Note: Figures in parentheses denote the number of piece workers engaged in coffee picking on the basis of almuds without the equivalent hours of work reported. An almud is a measure of capacity equal to 20 liters or 18.16 quarts.

- 1/ F.Carreras and Hnos.-- 28 coffee pickers were paid \$1.00 per almud.
- 2/ Jorge Lucer P. Valdivieso, Inc. -- 39 coffee pickers were paid \$1.00 per almud and picked 708 $\frac{1}{2}$  almuds.
- 3/ Aurelio Jimenez -- 7 coffee pickers were paid \$1.25 per almud and picked 17 almuds.
- 4/ Felicito Franceschini -- 29 coffee pickers were paid \$1.00 per almud and picked 384  $\frac{3}{4}$  almuds.
- 5/ Francisco Levy, Hijo -- 31 coffee pickers were paid \$1.00 per almud.
- 6/ Jesusa Aponte de Chaves -- 14 coffee pickers were paid \$1.25 per almud and picked 108 almuds.
- 7/ Antonio Soto Matias -- 68 coffee pickers were paid \$1.00 per almud and picked 1,006  $\frac{3}{4}$  almuds.
- 8/ Pedro Del Rio Gonzalez -- 6 coffee pickers were paid \$1.00 per almud and picked 179 $\frac{1}{4}$  almuds.
- 9/ Miguel A. Sastre -- 22 coffee pickers were paid \$1.10 per almud and picked 384 almuds. One picker was paid \$1.25 per almud and picked 6 almuds.
- 10/ Hiram Forestier Cuerda -- 9 coffee pickers were paid \$1.10 per almud.
- 11/ Aminta Martinez de Romaguera -- 12 coffee pickers were paid \$1.25 per almud.
- 12/ Jorge Llinas -- 23 coffee pickers were paid \$1.00 per almud and picked 383  $\frac{3}{4}$  almuds.
- 13/ Juan Adrover -- 30 coffee pickers were paid \$1.10 per almud and picked 639 $\frac{1}{2}$  almuds.
- 14/ Filomon Matos -- 45 coffee pickers were paid \$1.00 per almud and picked 798 $\frac{1}{4}$  almuds..

The General Agriculture Industry in Puerto Rico

Table 10a. Number of Employees and Average Hourly Earnings in 66 Coffee Farms in Puerto Rico, November 1968 and May 1969 (concluded)

Footnotes (concluded)

- 15/ Juan A. Lartegant -- 29 coffee pickers were paid \$1.00 per almud and picked 61 almuds.
- 16/ S. Noel Molini -- 22 coffee pickers were paid \$1.00 per almud and picked 327 almuds.
- 17/ Salvador Oliver -- 15 coffee pickers were paid \$1.00 per almud and picked 153 $\frac{1}{2}$  almuds.
- 18/ G. Llinas and Co. -- 11 coffee pickers were paid \$1.10 per almud and picked 23 $\frac{1}{4}$  almuds.
- 19/ Jose Llinas -- 9 coffee pickers were paid \$1.00 per almud and picked 149 $\frac{1}{2}$  almuds.
- 20/ Manuel Lozano Vaquero -- 17 coffee pickers were paid \$1.10 per almud and picked 159  $\frac{3}{4}$  almuds.

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Source: Information obtained in WHPC Divisions' May 1969 survey.

# The General Agriculture Industry in Puerto Rico

Table 10b. Number of Employees and Average Hourly Earnings in the Same 3 Tobacco Farms in Puerto Rico, February 1968, August 1968 and February 1969

Name of firm and location	February 1968		August 1968		February 1969	
	Employ-	Average	Employ-	Average	Employ-	Average
	ment	hourly	ment	hourly	ment	hourly
	: earnings:		: earnings:		: earnings	
	: (Harvesting season)		(Planting season)		: (Harvesting season)	
The Same 3 Tobacco Farms	24	\$ .51	10	\$ .55	24	\$.58
Pedro Sanchez Figneroa Comerio	9	.51	7	.54	7	.57
Sotero Gomez Hernandez Rio Piedras	3	.51	None		5	.57
Francisco Zayas Zayas Comerio	12	.50	3	.56	12	.58

Source: Information obtained in WHPC Divisions' survey.

# The General Agriculture Industry in Puerto Rico

Table 10c. Number of Employees and Average Hourly Earnings in the Same 125 Dairy Farms in Puerto Rico, May 1968 and 1969

Name of firm and location	May 1968		May 1969	
	Employment	Average	Employment	Average
		hourly		hourly
		earnings		earnings
<u>The same 125 Dairy Farms</u>	<u>1,740</u>	<u>\$0.72</u>	<u>1,720</u>	<u>\$0.83</u>
Ramon Rosa Delgado, Arecibo	7	.57	15	.87
Jose A. Lopez Castro, Juncos	20	.75	19	.72
Ramon Agudo Baker, Juncos	10	.70	10	1.01
Hacienda Cuco, Inc., Las Piedras	33	.62	27	.87
Hermosura Dairy, Las Piedras	26	.78	38	.87
Eugenio Lopez Rodriguez, Las Piedras	14	.59	12	.96
Eduardo Berrios Marcano, Juncos	7	.63	6	.73
Luis Ramon Berros, Juncos	13	.27	8	.76
Juan Castro Rivera, Juncos	7	.64	6	.76
Compania Ganadera del Sur, Inc.	31	.60	26	.77
Luis Carlo Aymat, Cabo Rojo	15	.75	17	.82
Luis Carlo Aymat, Lajas	14	.65	8	.76
Ramon Diez & Pablo McDougall, San German	5	.60	7	.73
Ricardo Cesani Nieto, Mayaguez	15	.52	13	.71
Angel & Gilberto Rodriguez Garcia Arecibo	14	.77	10	1.02
Edgardo Mejias Castaings, Morovis	7	.81	5	.70

# The General Agriculture Industry in Puerto Rico

Table 10c. Number of Employees and Average Hourly Earnings in the Same 125 Dairy Farms in Puerto Rico, May 1968 and 1969 (continued)

Name of firm and location	May 1968		May 1969	
	Employment	Average hourly earnings	Employment	Average hourly earnings
Cia. Agricola Paso Real, Inc., Manati				
Plant 1	11	\$.70	10 )	\$.74
Plant 2	19	.85	14 )	
Ramon Ernesto Avalo, Manati	10	.77	17	.86
Elliot O. Reyes Casanova, Vega Baja	23	.63	23	.72
Alfredo Toledo Gonzalez, Hatillo	14	.79	11	.97
Rafari Febles Mas, Manati	3	.73	3	.70
Juan R. Armstrong, Ponce	9	.60	8	.75
Salvador Morales Morales, Coamo	11	.59	11	.76
Peregrin Terrasa, Arecibo	5	.78	5	.93
Miguel Trinas Amador, Camuy	4	.57	4	.70
Ovidio Lozada Torres, Cabo Rojo	9	.70	2	.82
Llanos Coata Dairy Farms, Inc. Cabo Rojo	10	.52	8	.72
Hamilcar Rodriguez Quilichini Sabana Grande	2	.57	3	.70
Jose J. Fas, Coamo	13	.66	33	.76
Buen Amigo Dairy, Inc. Manati	28	.72	22	.77
Sociedad Agricola Nango, Manati	12	.71	12	.74
Arturo S. Marques Munoz, Arecibo	27	.76	18	1.01

# The General Agriculture Industry in Puerto Rico

Table 10c. Number of Employees and Average Hourly Earnings in the Same 125 Dairy Farms in Puerto Rico, May 1968 and 1969 (continued)

Name of firm and location	May 1968		May 1969	
	Employment	Average	Employment	Average
		hourly		hourly
		earnings:		earnings
Pedro Cordero Santiago, Arecibo	9	\$.76	10	\$.95
Ramon Talavera Perez, Arecibo	3	.77	5	.83
Samuel Rivera, Hatillo	7	.89	2	1.04
Jose E. Janer Vila, Caguas	26	.68	42	.72
Jose E. Janer Vila, Las Piedras	10	.64	12	.74
Rama Farms, Inc., Caguas	6	.64	20	.78
Antonio Roig, Sucrs, S. en C. Las Piedras	25	.73	38	.87
Finca Borinquen, Inc., Caguas	15	.70	15	.80
Jose Lopez Centeno, Naguabo	3	.86	3	.77
Jose W. Cartagena Guarch, Caguas	4	.77	6	.82
Eugenio Lopez Rodriguez, Las Piedras	11	.71	10	.77
Vaqueria Santa Ana, Inc., Caguas				
Ba Bairo	13	.88	) 16	.88
Rio Canas	3	.79		
Lorenzo Rodriguez Mendez, Naguabo	3	.63	5	.77
Antonio Carro Rivera, Corozal	16	.72	20	.76
Jose Lopez Jimenez, Rio Piedras	7	.83	7	.88
Aurelio Tio, Guaynabo	21	.69	19	.71
Gabriel Reyes, Dorado	13	.68	20	.74

# The General Agriculture Industry in Puerto Rico

Table Dc. Number of Employees and Average Hourly Earnings in the Same 125 Dairy Farms in Puerto Rico, May 1968 and 1969 (continued)

Name of firm and location	May 1968		May 1969	
	Employment	Average : hourly : earnings	Employment	Average : hourly : earnings
Dorado Dairy, Inc., Dorado	23	\$ .75	11	\$ .87
Ricardo La Costa Calaf, Dorado	13	.61	10	.72
Jorge Gonzales Rodriguez, Dorado	9	.68	17	.90
Nieves Dairy Farms, Inc., Toa Alta	10	.84	11	.98
Isidro Garcia San Miguel, Toa Alta				
Vaqueria #2	27	.74	(	
Vaqueria #3	16	.67	( 47	.81
Vaqueria #4	15	.68	(	
Sucn. William R. Fuertes, Catano	15	.96	7	1.07
Hacienda Elena, Inc., Santurce	16	.70	17	.70
Wilfredo Alvarez Cintron, Toa Alta	7	.73	6	.73
Toa Alta Dairy Products, Inc., Cidra	10	.77	15	.80
Toa Alta	6	.88	5	.88
Corozal	14	.70	12	.80
Sucn. Maricano Mari, Toa Baja	8	.63	7	.77
Jose Leopoldo Diaz Rifa, Toa Alta	11	.68	9	.83
Hacienda Diaz, Inc., Toa Alta	5	.93	12	.94
Finca Maldonado Hnos., Inc. Bayamon	14	.74	12	.90
Jorge Luis Tirado Erazo, Bayamon	9	.68	6	.80
Rafael Morales Rodriguez, Toa Alta	25	.83	51	.80
Lagunda Farms, Inc., Toa Baja	5	.84	7	1.14
Roberto Alvarez, Toa Alta	6	.66	5	.83



# The General Agriculture Industry in Puerto Rico

Table 10c. Number of Employees and Average Hourly Earnings in the Same 125 Dairy Farms in Puerto Rico, May 1968 and 1969 (continued)

Name of firm and location	May 1968		May 1969	
	Employment	Average	Employment	Average
		hourly		hourly
		earnings		earnings
Rio Nuevo Farms, Inc., Toa Baja	19	\$.73	18	\$.73
Antonio Lopez Felices, Vega Alta	10	.87	9	.93
Dr. E. D. Maldonado Sierra, Bayamon	20	.67	22	.78
Media Luna Dairy, Inc., Toa Baja	27	.73	21	.71
Hacienda Vizcarrondo, Inc. Toa Alta				
Vega Grande farm	9	.63	11	.82
Esperanza farm	13	.62	15	.71
Jose Luiz Cortes, Aibonito	13	.83	10	.71
Finca Campo Alegre, Inc., Cidra	28	.66	23	.82
Fernando A. Emmanuelli, Cayuy	18	.63	10	.76
Federico Stubbe Cestero, Cidra	12	.57	13	.70
Juan B. Soto, San Juan	9	.70	14	.95
Pablo Morales Isaac, Hato Rey	13	.83	14	.82
Raul R. Saldana, Rio Piedras	15	.62	7	.81
Zoilo Mendez Rios, Juncos	14	.73	11	.84
Granja Gonzalez, Inc., Caguas	12	.73	15	.80
Finca La Hormigueta, Inc. Gurabo	15	.75	28	.82
Ramon H. Seneriz, Aguas Brenas	10	.68	12	.76
Andres Nieves Vazquez, dba Finca Florida, San Lorenzo	11	.84	12	.85
Blanca Longo Vda Agudo, Caguas	27	.75	17	.80

# The General Agriculture Industry in Puerto Rico

Table 10c. Number of Employees and Average Hourly Earnings in the Same 12<sup>th</sup>  
Dairy Farms in Puerto Rico, May 1968 and 1969 (continued)

Name of firm and location	May 1968		May 1969	
	Employment	Average : hourly : earnings	Employment	Average : hourly : earnings
Sucn. Jose M. Del Valle, Rio Piedras	9	\$ .75	8	\$ .76
Nicolas Quinones Jimenez, Gurabo	14	.70	11	.83
Compania Agricola de Bairoa, Inc. Caguas	21	.62	19	.71
Jose A. & Carlos R. Urrutia, Gurabo	17	.70	20	.82
Jose A. Urrutia, Carolina	26	.74	28	.74
Teresa Font de Mathias, Naguabo	13	.78	12	.85
Carlos Neuarez Perez, Naguabo	14	.82	15	1.12
Jose A. Calzada, Canovanas	6	.60	6	.84
Rogelio Diaz Cruz, Fajardo				
La Union	11	.76	6	.77
La Vivida	7	.67	5	.70
Vagueria Gallow, Inc. Luquillo	10	1.17	12	1.58
Rafael Bermudez Rodriguez				
Rio Grande	14	.85	12	1.07
Naguabo	10	.71	18	.77
Fajardo	8	.60	6	.82
Leche Pura de P.R., Inc. Canovanas	8	.76	10	1.02
Eliseo Ruiz Morales, Caroline	7	1.02	7	.75
Finca Altamira, Inc. Canovanas	19	.68	21	.84
Jorge M. Alvarez, Loiza	34	.60	30	.70
Jacobo Cubero Caballero, Manati	4	.71	3	.74

The General Agriculture Industry in Puerto Rico

Table 10c . Number of Employees and Average Hourly Earnings in the Same 125 Dairy Farms in Puerto Rico, May 1968 and 1969 (concluded)

Name of firm and location	May 1968		May 1969	
	Employment	Average hourly earnings	Employment	Average hourly earnings
Mario Marcantoni, Santurce	10	\$.92	7	\$1.07
Rafael A. Miro Nigacioni Carolina	10	.84	8	.78
A. Rosado Marrero, Inc., Corozal	20	.74	15	.82
Jorge E. Castro, Rio Grande	10	.71	7	.88
Rosa Fonalledas, Vega Alta	23	.64	17	.74
Jeronimo Fonalledas, Dorado	33	.86	22	.75
Jaime Fonalledas, Vega Alta	36	.66	27	.75
Gerrardo Fonalledas, Toa Beja	11	.59	11	.73
Finca La Candelaria	23	.66	24	.77
Finca Santa Elena				
Eduardo Gonzalez Amador, Isabela	5	.84	9	.81
Luis Acevedo Gonzalez, Arecibo	2	.94	4	.70
Chaiben J. Fas, Cabo Rojo	11	.88	8	.73
Genaro Cautino-Bruno, Guayama	37	.63	20	.72
Antonio Vaquer-Riera, Guayama	13	.62	12	.71
Juan A. Faria Lugo, Coamo	18	.67	15	.81
Jorge Ferrer-Zapata, Ponce	4	.57	4	.70
Hermanos Rivera Escadero, Coamo	6	.65	5	.70
Vicente Santos Ramirez e Hijos, Inc. Caguas	10	.67	22	.77
William Gonzalez Quinones, Gurabo	4	.96	8	.72

Source: Information collected during WHPC Divisions' survey.

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# The General Agriculture Industry in Puerto Rico

Table 10d. Number of Employees and Average Hourly Earnings in the Same  
3 Pineapple Farms in Puerto Rico, May 1968 and 1969

Name of firm and location	May 1968		May 1969	
	Employment	Average : hourly : earnings:	Employment	Average : hourly : earnings
<u>The Same 3 Pineapple Farms</u>	<u>160</u>	<u>\$ 1.01</u>	<u>332</u>	<u>\$ .72</u>
Landron Nater, Inc.	-		106	.69
Vega Baja	-	\$ .68	154	.73
Arecibo	86			
Corozal				
Marie E. Voade Labadie	14	.61	7	.77
Moca				
Frozen Fruit Concentrates	60	1.56	65	.75
Bayamon				

Source: Information obtained in WHPC's Division survey.

# The General Agriculture Industry in Puerto Rico

Table 10e. Number of Employees and Average Hourly Earnings in the Same 7 Tomato, Aviculture and Floriculture Farms in Puerto Rico, May 1968 and 1969

Name of firm and location	May 1968		May 1969	
	Employment	Average hourly earnings	Employment	Average hourly earnings
<u>The Same 7 Tomato, etc. Farms</u>	<u>352</u>	<u>\$ .63</u>	<u>209</u>	<u>\$ .78</u>
Luce & Co., Aquirre	200	.59	59	.81
Lawn Service Inc., Caguas	6	.83	4	.84
Cerro Gordo Nursery, Inc.				
Bayamon	45	.68	64	.71
Vega Alta	38	.61		
North South Nursery Co.				
San Juan	38	.93	47	.93
Eugenio Lopez Rodriguez	3	.60	6	.70
Las Piedras				
Edward Rohers				
Arecibo	20	.59	18	.63
Manuel A. Mayoral				
Ponce	13	.60	11	.63

## FLSA applicable minimums:

	May 1968	May 1969
Tomato	\$ .57	(
Aviculture	.57	( \$ .62
Floriculture	.55	(

NA - Not available since in May 1968, Tomato, Aviculture and Floriculture operations were in 3 separate classifications.

Source: Information obtained in WHPC Divisions survey.

The General Agriculture Industry in Puerto Rico

Table 10f. Number of Employees and Average Hourly Earnings in the Same 14 Cattle and Other Farms in Puerto Rico, May 1968 and 1969

Name of firm and location	May 1968		May 1969	
	Employment	Average hourly earnings	Employment	Average hourly earnings
<u>The Same 14 Cattle and Other Farms</u>	<u>178</u>	<u>\$ .934</u>	<u>230</u>	<u>\$ .79</u>
Antonio Roig, Sucrs. S. en C. Humacao	27	.74	9	1.02
Sucesion J. Serralles, P. R.	11	.85	16	.68
Pedro F. Amador Hernandez, Camuy	3	.66	2	.63
Cidra Nebraska Beef Co., Barceloneta	43	.87	39	.95
Antonio Roig, Sucrs. S. en C. Yabucoa	22	.75	18	.74
Sucn. William Nieto, Mannabo	1	.65	1	.63
Dr. E. D. Maldonado Sierra Bayamon	16	.70	14	.88
Jose Davila Ortiz, Humacao	2	.57	1	.92
Pablo Morales Isaac, Hato Rey	2	.56	3	.71
Cooperativa Ganaderos de Viegues	26	.61	43	.77
Pedro F. Amador Hernandez, Camuy	3	.65	55	.71
Juan R. Juarbe Alfaro, Isabela	6	.60	8	.33
Salvador Rullan Mayol, Utuado	11	.56	7	.55
Ricardo Cesani Nieto, Mayaguez	5	.57	5	.94

Source: Information obtained in WHPC Divisions' survey.

Table 11a. Percent Distribution of Covered Employees by Average  
Straight-Time Hourly Earnings, November 1968.

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Coffee Classification  
Harvesting season

Average Hourly Earnings	Covered Employees (Percent)	Average Hourly Earnings	Covered Employees (Percent)
Exactly \$0.50	17.0	\$.875 and under \$ .90	.7
\$.525 and under .55	4.0	.90 and under .925	1.2
.55 and under .575	4.6	.925 and under .95	4.1
.575 and under .60	3.0	.95 and under .975	.6
.60 and under .625	2.6	.975 and under 1.00	.2
.625 and under .65	10.6	1.00 and under 1.025	26.6
.65 and under .675	2.2	1.025 and under 1.05	.7
.675 and under .70	1.5	1.05 and under 1.075	.7
.70 and under .725	1.6	1.075 and under 1.10	.5
.725 and under .75	1.5	1.10 and under 1.125	1.4
.75 and under .775	3.1	1.125 and under 1.15	.5
.775 and under .80	.5	1.15 and under 1.175	.2
.80 and under .825	5.9	1.175 and under 1.20	.4
.825 and under .85	1.2	1.20 and under 1.225	.2
.85 and under .875	.7	1.225 and under 1.25	.1
		1.25 and under 1.275	.3
		1.275 and under 1.30	.1
		1.30 and over	1.1
Number of employees <u>1,103</u>		Total	<u>100.0</u>
Average hourly earnings \$ <u>0.78</u>		Number of farms	<u>64</u>
FLSA minimum as of November 1968 \$ <u>.50</u>			

Notes: Details may not add to total due to rounding.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.



Table 11b. Percent Distribution of Covered Employees by Average  
Straight-Time Hourly Earnings, May 1969.

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Coffee Classification  
Planting season

Average Hourly Earnings	Covered Employees (Percent)		Average Hourly Earnings	Covered Employees (Percent)	
\$ .525 and under \$ .55	73.0		\$.875 and under \$ .90	.7	
.55 and under .575	7.1		.90 and under .925	.2	
.575 and under .60	.2		.925 and under .95	.2	
.60 and under .625	3.6		.95 and under .975	-	
			.975 and under 1.00	-	
.625 and under .65	5.5		1.00 and under 1.025	.5	
.65 and under .675	.9		1.025 and under 1.05	-	
.675 and under .70	.2		1.05 and under 1.075	-	
.70 and under .725	.7		1.075 and under 1.10	.4	
.725 and under .75	.4		1.10 and under 1.125	-	
.75 and under .775	4.1		1.125 and under 1.15	-	
.775 and under .80	.2		1.15 and under 1.175	-	
.80 and under .825	1.1		1.175 and under 1.20	-	
.825 and under .85	.5		1.20 and under 1.225	-	
.85 and under .875	.2		1.225 and under 1.25	-	
			1.25 and under 1.275	.4	
			1.275 and under 1.30	-	
			1.30 and over	.4	
Number of employees <u>566</u>			Total		<u>100.0</u>
Average hourly earnings \$ <u>0.57</u>			Number of farms		<u>50</u>
FLSA minimum as of May 1969 \$ <u>.53</u>					

Notes: Details may not add to total due to rounding.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.

Table 12a. Percent Distribution of Covered Employees by Average  
Straight-Time Hourly Earnings, May 1968.

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Dairy Farms Classification

Average Hourly Earnings			Covered Employees (Percent)	Average Hourly Earnings			Covered Employees (Percent)
Exactly	\$ .57	39.6		\$.875 and under	\$ .90		.8
\$ .571 and under	.575	.1		.90 and under	.925		.4
.575 and under	.60	2.5		.925 and under	.95		1.6
.60 and under	.625	8.2		.95 and under	.975		1.0
				.975 and under	1.00		.2
.625 and under	.65	8.5		1.00 and under	1.025		3.1
.65 and under	.675	3.6		1.025 and under	1.05		1.4
.675 and under	.70	.8		1.05 and under	1.075		.4
.70 and under	.725	2.9		1.075 and under	1.10		.1
.725 and under	.75	3.0		1.10 and under	1.125		.5
.75 and under	.775	4.3		1.125 and under	1.15		.5
.775 and under	.80	1.8		1.15 and under	1.175		.3
.80 and under	.825	3.9		1.175 and under	1.20		.1
.825 and under	.85	3.4		1.20 and under	1.225		.1
.85 and under	.875	1.3		1.225 and under	1.25		-
				1.25 and over			6.1
Number of employees <u>1,740</u>				Total			<u>100.0</u>
Average hourly earnings \$ <u>.72</u>				Number of farms			<u>125</u>
FLSA minimum as of May 1968 \$ <u>.57</u>							

Notes: Details may not add to total due to rounding.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.

Table 12b. Percent Distribution of Covered Employees by Average  
Straight-Time Hourly Earnings, May 1969.

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Dairy Farms Classification

Average Hourly Earnings			Covered Employees (Percent)	Average Hourly Earnings			Covered Employees (Percent)
				\$ .875 and under	\$ .90		2.6
				.90 and under	.925		.3
				.925 and under	.95		2.0
				.95 and under	.975		.4
				.975 and under	1.00		.3
				1.00 and under	1.025		2.2
				1.025 and under	1.05		1.7
Exactly	\$ .70	55.5		1.05 and under	1.075		4.0
\$ .701 and under	.725	1.0		1.075 and under	1.10		.2
.725 and under	.75	3.1		1.10 and under	1.125		2.0
.75 and under	.775	7.8		1.125 and under	1.15		.8
.775 and under	.80	.9		1.15 and under	1.175		.3
.80 and under	.825	3.1		1.175 and under	1.20		.2
.825 and under	.85	2.9		1.20 and under	1.225		.6
.85 and under	.875	1.5		1.225 and under	1.25		-
				1.25 and under	1.275		1.3
				1.275 and under	1.30		-
				1.30 and over			4.1
Number of employees 1,789				Total			100.0
Average hourly earnings \$0.83				Number of farms			125
FLSA minimum as of May 1969 \$ .70							

Notes: Details may not add to total due to rounding.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.



Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Pineapple Classification

**Industry subdivision:** Pineapple Classification

Notes: Details may not add to total due to rounding.  
Dash means zero or less than .05 percent.

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Table 14a Percent Distribution of Covered Employees by Average  
Straight-Time Hourly Earnings, May 1968

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Tomatoes, Peppers, Aviculture and Floriculture  
Classification

Average Hourly Earnings		Covered Employees (Percent)	Average Hourly Earnings		Covered Employees (Percent)
\$ .55 and under	\$ .575	67.1	\$.875 and under	\$.90	2.0
.575 and under	.60	2.8	.90 and under	.925	-
.60 and under	.625	11.4	.925 and under	.95	.6
			.95 and under	.975	-
			.975 and under	1.00	1.7
.625 and under	.65	3.4	1.00 and under	1.025	-
.65 and under	.675	2.0	1.025 and under	1.05	-
.675 and under	.70	-	1.05 and under	1.075	-
.70 and under	.725	2.6	1.075 and under	1.10	.3
.725 and under	.75	-	1.10 and under	1.125	-
.75 and under	.775	1.4	1.125 and under	1.15	-
.775 and under	.80	-	1.15 and under	1.175	.3
.80 and under	.825	.9	1.175 and under	1.20	-
.825 and under	.85	-	1.20 and under	1.225	.3
.85 and under	.875	.9	1.225 and under	1.25	-
			1.25 and over		2.7
Number of employees		352	Total		100.0
Average hourly earnings		\$.63	Number of farms		7
FLSA minimums as of May 1968:			Tomatoes and peppers	\$ .57	
			Aviculture	.57	
			Floriculture	.55	

Notes: Details may not add to total due to rounding.  
Dash means zero or less than .05 percent

Source: Survey conducted by the WHPC Divisions.

Table 14b Percent Distribution of Covered Employees by Average  
Straight-Time Hourly Earnings, May 1969

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Tomatoes, Peppers, Aviculture and Floriculture  
Classification

Average Hourly Earnings	Covered Employees (Percent)	Average Hourly Earnings	Covered Employees (Percent)
		\$.875 and under \$.90	-
		.90 and under .925	1.0
		.925 and under .95	.5
		.95 and under .975	1.9
\$ .60 and under \$.625	45.9	.975 and under 1.00	-
.625 and under .65	.5	1.00 and under 1.025	3.8
.65 and under .675	11.9	1.025 and under 1.05	-
.675 and under .70	3.3	1.05 and under 1.075	-
.70 and under .725	7.2	1.075 and under 1.10	.5
.725 and under .75	1.4	1.10 and under 1.125	1.9
.75 and under .775	4.8	1.125 and under 1.15	-
.775 and under .80	-	1.15 and under 1.175	2.9
.80 and under .825	1.9	1.175 and under 1.20	-
.825 and under .85	.5	1.20 and under 1.225	-
.85 and under .875	1.4	1.225 and under 1.25	-
		1.25 and over	8.7
Number of employees	209	Total	100.0
Average hourly earnings	\$ .78	Number of farms	7
FLSA minimum as of May 1969	\$ .62		

Notes: Details may not add to total due to rounding.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.



Table 15a Percent Distribution of Covered Employees by Average  
Straight-Time Hourly Earnings, May 1968

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Cattle and Other Agricultural Activities  
Classification

Average Hourly Earnings			: Covered : Employees: : (Percent):	Average Hourly Earnings			: Covered : Employees : (Percent)
\$ .50 and under	\$ .525	8.7	::	\$ .875 and under	\$ .90	1.0	
.525 and under	.55	2.6	::	.90 and under	.925	3.6	
.55 and under	.575	19.0	::	.925 and under	.95	-	
.575 and under	.60	6.2	::	.95 and under	.975	.5	
.60 and under	.625	3.6	::	.975 and under	1.00	-	
			::				
.625 and under	.65	15.4	::	1.00 and under	1.025	3.1	
.65 and under	.675	3.6	::	1.025 and under	1.05	.5	
.675 and under	.70	2.1	::	1.05 and under	1.075	1.0	
.70 and under	.725	3.6	::	1.075 and under	1.10	-	
.725 and under	.75	-	::	1.10 and under	1.125	.5	
			::				
.75 and under	.775	2.1	::	1.125 and under	1.15	-	
.775 and under	.80	.5	::	1.15 and under	1.175	.5	
.80 and under	.825	10.7	::	1.175 and under	1.20	-	
.825 and under	.85	2.1	::	1.20 and under	1.225	1.0	
.85 and under	.875	.5	::	1.225 and under	1.25	-	
			:	1.25 and under	1.30	3.1	
			:	1.30 and over		4.5	
			::				
Number of employees <u>195</u>				Total			<u>100.0</u>
Average hourly earnings \$ <u>.74</u>				Number of farms <u>14</u>			
				Cattle \$ .50			
FLSA minimum as of May 1968:				Other agricultural activities \$ <u>.47</u>			

Notes: Details may not add to total due to rounding.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.

Table 15b. Percent Distribution of Covered Employees by Average  
Straight-Time Hourly Earnings, May 1969.

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Cattle and Other Agricultural Activities  
Classification

Average Hourly Earnings			Covered Employees (Percent)	Average Hourly Earnings			Covered Employees (Percent)
Exactly	\$ .55	4.1		\$.875 and under	\$ .90	-	
\$ .551 and under	.575	-		.90 and under	.925	5.4	
.575 and under	.60	-		.925 and under	.95	1.4	
.60 and under	.625	-		.95 and under	.975	.9	
				.975 and under	1.00	.5	
.625 and under	.65	1.4		1.00 and under	1.025	1.8	
.65 and under	.675	16.8		1.025 and under	1.05	1.4	
.675 and under	.70	2.3		1.05 and under	1.075	1.4	
.70 and under	.725	36.2		1.075 and under	1.10	.5	
.725 and under	.75	-		1.10 and under	1.125	-	
.75 and under	.775	5.4		1.125 and under	1.15	.9	
.775 and under	.80	.5		1.15 and under	1.175	.5	
.80 and under	.825	5.0		1.175 and under	1.20	-	
.825 and under	.85	5.9		1.20 and under	1.225	.5	
.85 and under	.875	1.4		1.225 and under	1.25	-	
				1.25 and under	1.275	2.8	
				1.275 and under	1.30	-	
				1.30 and over		5.0	
Number of employees <u>221</u>				Total			<u>100.0</u>
Average hourly earnings <u>\$0.79</u>				Number of farms <u>14</u>			
FLSA minimum as of May 1969 <u>\$ .55</u>							

Notes: Details may not add to total due to rounding.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.

# The General Agriculture Industry in Puerto Rico

Table 16. Consumer Price Indexes for Urban Wage Earners and Clerical Workers in the United States and Wage Earners' Families in Puerto Rico, All Items, 1964-1969

[1957 - 1959 = 100]

Year, month	Indexes	
	United States	Puerto Rico
1964	108.1	114.8
1965	109.9	117.5
1966	113.1	121.1
1967	116.3	126.1
1968	121.2	129.6
January	118.6	128.5
February	119.0	128.8
March	119.5	129.0
April	119.9	129.3
May	120.3	129.7
June	120.9	129.7
July	121.5	129.8
August	121.9	129.7
September	122.2	129.7
October	122.9	130.0
November	123.4	130.0
December	123.7	130.7
1969		
January	124.1	132.1
February	124.6	132.7
March	125.6	133.1
April	126.4	133.1
May	126.8	133.2
June	127.6	133.8
July	128.2	134.0
August	128.7	134.3

Sources: U. S. Bureau of Labor Statistics: Consumer Price Index, United States City Average for Urban Wage Earners and Clerical Workers, 1964-1969.

Puerto Rico Bureau of Labor Statistics: Consumer Price Index for Wage Earners' Families in Puerto Rico, 1964-1969.

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# The General Agriculture Industry in Puerto Rico

Table 17. Consumer Price Indexes for All Items and for Foods in Puerto Rico, 1964 to 1969

[1957-59 = 100]

	: All : Items	: Food	: Locally : produced : foods	: Imported : foods
1964	114.8	119.9	133.7	110.4
1965	117.5	124.0	138.4	114.1
1966	121.1	128.2	143.8	117.4
1967	126.1	135.2	156.1	120.9
1968	<u>129.6</u>	<u>140.6</u>	<u>166.1</u>	<u>123.0</u>
January	128.5	139.3	164.8	121.8
February	128.8	139.9	165.9	122.0
March	129.0	140.0	166.0	122.1
April	129.3	140.6	166.2	122.9
May	129.7	141.0	166.9	123.2
June	129.7	140.8	166.5	123.1
July	129.8	140.8	166.0	123.5
August	129.7	140.6	166.0	123.2
September	129.7	140.5	165.5	123.1
October	130.1	140.9	165.6	123.7
November	130.0	140.8	166.3	123.0
December	130.7	141.7	167.5	123.9
1969				
January	132.1	144.8	169.6	128.2
February	132.7	146.2	170.1	130.5
March	133.1	146.0	170.4	129.7
April	133.1	145.6	170.0	128.9
May	133.2	145.7	170.1	128.9
June	133.8	145.9	170.5	129.0

Source: Puerto Rico Bureau of Labor Statistics: Consumer Price Index for Wage Earner's Families in Puerto Rico, 1964-1969.

**Table 18a Degree of Impact of Selected Higher Minimum Wage Rates, November 1968**

**Industry:** The General Agriculture Industry in Puerto Rico

Industry subdivision: Coffee Classification  
Harvesting season

Increase in:				Increase in:			
Selected:	Average	Selected:	Average	Selected:	Average	Selected:	Average
higher :	Hourly wage	straight-	higher :	Hourly wage	straight-	higher :	Hourly wage
minimum:	bill	time	minimum :	bill	time	minimum :	bill
wage :	:	hourly	wage :	:	hourly	wage :	:
rate :	Amount:Percent	earnings	rate :	Amount:Percent	earnings	rate :	Amount:Percent
\$ .525	\$ 4.77	0.6	-	\$ .875	\$173.43	20.3	\$0.16
.55	10.36	1.2	\$0.01	.90	190.26	22.2	.17
.575	17.05	2.0	.02	.925	207.39	24.2	.19
.60	24.53	2.9	.02	.95	224.88	26.3	.20
				.975	243.30	28.4	.22
.625	33.18	3.9	.03	1.00	261.83	30.6	.24
.65	44.71	5.2	.04	1.025	287.62	33.6	.26
.675	56.71	6.6	.05	1.05	313.61	36.7	.28
.70	69.27	8.1	.06	1.075	339.83	39.7	.31
.725	82.17	9.6	.07	1.10	366.20	42.8	.33
.75	95.60	11.2	.09	1.125	392.87	45.9	.36
.775	109.90	12.8	.10	1.15	419.76	49.1	.38
.80	124.37	14.5	.11	1.175	446.72	52.2	.40
.825	140.46	16.4	.13	1.20	473.75	55.4	.43
.85	156.82	18.3	.14	1.225	500.87	58.6	.45
				1.25	528.01	61.7	.48
				1.275	555.24	64.9	.50
				1.30	582.47	68.1	.53
Number of employees <u>1,103</u>				Average hourly earnings \$ <u>0.78</u>			
Hourly wage bill \$ <u>855.31</u>				Number of farms <u>61</u>			
FLSA minimum as of November 1968				\$ .50			

Notes: "Degree of Impact" is defined in the text.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.

Table 18b Degree of Impact of Selected Higher Minimum Wage Rates, May 1969

**Industry:** The General Agriculture Industry in Puerto Rico

Industry subdivision: Coffee classification  
Planting season

Increase in:				Increase in:			
: Selected:		:	Average	:: Selected :		:	Average
higher :	Hourly wage	:	straight-	higher :	Hourly wage	:	straight-
minimum:	bill	:	time	minimum :	bill	:	time
wage :	:	:	hourly	wage :	:	:	hourly
rate :	Amount:Percent	:	earnings	rate :	Amount:Percent	:	earnings
\$ .55	\$ 8.19	2.5	\$ .01	:: \$ .875	\$174.45	53.9	\$ .31
.575	19.25	5.9	.03	:: .90	188.32	58.2	.33
.60	30.59	9.5	.05	:: .925	202.22	62.5	.36
				:: .95	216.14	66.8	.38
				:: .975	230.06	71.1	.41
				::			
.625	42.42	13.1	.07	:: 1.00	243.99	75.4	.43
.65	55.04	17.0	.10	:: 1.025	257.99	79.7	.46
.675	67.74	20.9	.12	:: 1.05	271.99	84.0	.48
.70	80.51	24.9	.14	:: 1.075	285.99	88.4	.51
.725	93.34	28.8	.16	:: 1.10	300.03	92.7	.53
				::			
.75	106.26	32.8	.19	:: 1.125	314.08	97.0	.55
.775	119.76	37.0	.21	:: 1.15	328.13	101.4	.58
.80	133.27	41.2	.24	:: 1.175	342.18	105.7	.60
.825	146.95	45.4	.26	:: 1.20	356.23	110.1	.63
.85	160.67	49.6	.28	:: 1.225	370.28	114.4	.65
				:: 1.25	384.33	118.7	.68
				:: 1.275	398.43	123.1	.70
				:: 1.30	412.53	127.5	.73
Number of employees <u>566</u>				Average hourly earnings \$ <u>0.57</u>			
Hourly wage bill \$ <u>323.67</u>				Number of farms <u>50</u>			
FLSA minimum as of May 1969 <u>\$ .53</u>							

Notes: "Degree of Impact" is defined in the text.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.

Table 19a Degree of Impact of Selected Higher Minimum Wage Rates, August 1968

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Tobacco farms  
Planting season

Increase in:				Increase in:			
Selected:				Selected:			
higher	Hourly wage	straight-	Average	higher	Hourly wage	straight-	Average
minimum:	bill	time	time	minimum	bill	time	time
wage	:	hourly	earnings	wage	:	hourly	earnings
rate	:Amount:Percent	:	(cents)	rate	:Amount:Percent	:	(cents)
.525	\$ .10	1.8	\$.01	.875	\$ 3.31	60.8	\$.33
.55	.20	3.7	.02	.90	3.56	65.4	.36
.575	.38	7.0	.04	.925	3.81	70.0	.38
.60	.60	11.0	.06	.95	4.06	74.6	.41
.625	.82	15.1	.08	.975	4.31	79.2	.43
.65	1.06	19.5	.11	1.00	4.56	83.8	.46
.675	1.31	24.1	.13	1.025	4.81	88.4	.48
.70	1.56	28.7	.16	1.05	5.06	93.0	.51
.725	1.81	33.3	.18	1.075	5.31	97.6	.53
.75	2.06	37.9	.21	1.10	5.56	102.2	.56
.775	2.31	42.5	.23	1.125	5.81	106.8	.58
.80	2.56	47.1	.26	1.15	6.06	111.4	.61
.825	2.81	51.7	.28	1.175	6.31	116.0	.63
.85	3.06	56.2	.31	1.20	6.56	120.6	.66

Number of employees 10 ; Average hourly earnings \$ .54

Hourly wage bill \$ 5.44 Number of farms 3

FLSA minimum as of August 1968 \$ .47

Notes: "Degree of Impact" is defined in the text.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.



Table 19b Degree of Impact of Selected Higher Minimum Wage Rates, May 1969

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Tobacco classification  
Harvesting Season

Increase in:				Increase in:			
Selected:	Average	Higher	Minimum	Selected:	Average	Higher	Minimum
Hourly wage	straight-	Hourly wage	straight-	Hourly wage	straight-	Hourly wage	straight-
bill	time	bill	time	bill	time	bill	time
rate	earnings	rate	earnings	rate	earnings	rate	earnings
Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
\$ .525	\$ .02	.1	-	\$ .875	\$7.17	51.9	\$ .30
.55	.12	.9	\$ .01	.90	7.78	56.3	.32
.575	.40	2.9	.02	.925	8.38	60.6	.35
.60	.85	6.2	.04	.95	8.98	64.9	.37
				.975	9.58	69.3	.40
.625	1.30	9.4	.05	1.00	10.18	73.6	.42
.65	1.88	13.6	.08	1.025	10.78	78.0	.45
.675	2.45	17.7	.10	1.05	11.38	82.3	.47
.70	3.03	21.9	.13	1.075	11.98	86.6	.50
.725	3.60	26.1	.15	1.10	12.58	91.0	.52
.75	4.18	30.2	.17	1.125	13.18	95.3	.55
.775	4.78	34.6	.20	1.15	13.77	99.7	.57
.80	5.38	38.9	.22	1.175	14.38	104.0	.60
.825	5.98	43.2	.25	1.20	14.98	108.3	.62
.85	6.58	47.6	.27				

Number of employees 24 Average hourly earnings \$ .58

Hourly wage bill \$ 13.82 Number of farms 3

FLSA minimum as of May 1969 \$ .52

Notes: "Degree of Impact" is defined in the text.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.

Table 20a Degree of Impact of Selected Higher Minimum Wage Rates, May 1968

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Dairy farms classification

Increase in:				Increase in:			
Selected:		Average		Selected:		Average	
higher	Hourly wage	straight-	time	higher	Hourly wage	straight-	time
minimum:	bill	hourly	earnings	minimum:	bill	hourly	earnings
wage	:	rate	Amount:Percent	wage	:	rate	Amount:Percent
:				:			
:				:			
				::	\$ .875	\$349.51	27.8 \$ .20
				::	.90	386.20	30.8 .22
				::	.925	423.17	33.7 .24
.575	\$ 3.45	.3	-	::	.95	460.57	36.7 .27
.60	21.34	1.7	\$.01	::	.975	498.66	39.7 .29
:				:			
.625	42.98	3.4	.03	::	1.00	536.87	42.8 .31
.65	67.07	5.3	.04	::	1.025	576.46	45.9 .33
.675	93.92	7.5	.05	::	1.05	616.44	49.1 .35
.70	121.28	9.7	.07	::	1.075	656.82	52.3 .38
.725	149.69	11.9	.09	::	1.10	697.23	55.5 .40
:				:			
.75	179.26	14.3	.10	::	1.125	737.84	58.8 .42
.775	211.14	16.8	.12	::	1.15	778.61	62.0 .45
.80	243.55	19.4	.14	::	1.175	819.53	65.3 .47
.825	277.82	22.1	.16	::	1.20	860.50	68.5 .49
.85	313.16	24.9	.18	::			
:				:			
:				:			

Number of employees 1,740

Average hourly earnings \$ .721

Hourly wage bill \$ 1,255.30

Number of farms 125

FLSA minimum as of May 1968 \$ .57

Notes: "Degree of Impact" is defined in the text.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.

Industry subdivision: Dairy farms classification

**Source:** Survey conducted by the WHPC Divisions.

Table 21a -- Degree of Impact of Selected Higher Minimum Wage Rates, May 1968

**Industry:** The General Agriculture Industry in Puerto Rico

Industry subdivision: Pineapple classification

Increase in:				Increase in:			
Selected:	Average	Selected:	Average	Selected:	Average	Selected:	Average
higher :	Hourly wage	straight-	higher :	Hourly wage	straight-	higher :	Hourly wage
minimum:	bill	time	minimum :	bill	time	minimum :	bill
wage :	:	hourly	wage :	:	hourly	wage :	:
rate :	Amount:Percent	earnings	rate :	Amount:Percent	earnings	rate :	Amount:Percent
\$ .60	\$ 0.20	0.1	-	\$ .875	\$21.80	13.6	\$ .14
.625	.93	0.6	-	.90	24.10	15.0	.15
.65	2.66	1.7	\$ .01	.925	26.43	16.4	.16
.675	4.64	2.9	.03	.95	28.75	17.9	.18
.70	6.65	4.1	.04	.975	31.08	19.3	.19
.725	8.70	5.4	.05	1.00	33.44	20.8	.21
.75	10.80	6.7	.07	1.025	35.91	22.3	.22
.775	12.90	8.0	.08	1.05	38.43	23.9	.24
.80	15.04	9.4	.09	1.075	40.98	25.5	.26
.825	17.26	10.7	.11	1.10	43.53	27.1	.27
.85	19.50	12.1	.12	1.125	46.08	28.7	.29
				1.15	48.66	30.3	.30
				1.175	51.23	31.9	.32
				1.20	53.81	33.5	.34
Number of employees <u>160</u>				Average hourly earnings <u>\$1.01</u>			
Hourly wage bill \$ <u>160.79</u>				Number of farms <u>3</u>			
FLSA minimum as of May 1968 <u>\$ .59</u>							

Notes: "Degree of Impact" is defined in the text.  
Dash means zero or less than .05 percent.

Source: Survey conducted by the WHPC Divisions.

Industry subdivision: Pineapple classification

Number of employees 332 Average hourly earnings \$ .72  
Hourly wage bill \$ 239.88 Number of farms 3  
FLSA minimum as of May 1969 \$ .65

Source: Survey conducted by the WHPC Divisions.

Table 22a Degree of Impact of Selected Higher Minimum Wage Rates, May 1968

Industry: The General Agriculture Industry in Puerto Rico

Industry subdivision: Tomatoes, Peppers, Aviculture and Floriculture classification

Increase in:				Increase in:			
Selected:				Selected:			
higher :				higher :			
minimum: bill :				minimum :			
wage :				wage :			
rate :Amount:Percent :				rate : Amount:Percent :			
Average				Average			
straight-				straight-			
time				time			
hourly				hourly			
earnings				earnings			

Industry subdivision: Tomatoes, Peppers, Aviculture and Floriculture  
classification

Number of employees 209 Average hourly earnings \$ .78  
Hourly wage bill \$ 162.63 Number of farms 7  
FLSA minimum as of May 1969 \$ .62

Source: Survey conducted by the WHPC Divisions.



**Table 23a Degree of Impact of Selected Higher Minimum Wage Rates, May 1968**

**Industry:** The General Agriculture Industry in Puerto Rico

Industry subdivision: Cattle and Other Agricultural Activities  
classification

Increase in:				Increase in:			
: Selected:	:	Average	:	: Selected:	:	Average	:
higher :	Hourly wage	: straight-	:	higher :	Hourly wage	: straight-	:
minimum:	<u>bill</u>	: time	:	minimum :	<u>bill</u>	: time	:
wage :	:	hourly	:	wage :	:	hourly	:
rate :Amount:Percent :		earnings	:	rate : Amount:Percent :		earnings	:
\$ .525	\$ .43	.3	-	:: \$ .875	\$37.96	26.4	\$ .19
.55	.95	.7	\$.01	:: .90	41.92	29.2	.22
.575	1.88	1.3	.01	:: .925	46.02	32.0	.24
.60	3.56	2.5	.02	:: .95	50.17	34.9	.26
				:: .975	54.35	37.8	.28
.625	5.49	3.8	.03	:: 1.00	58.52	40.7	.30
.65	8.15	5.7	.04	:: 1.025	62.85	43.7	.32
.675	11.03	7.7	.06	:: 1.05	67.18	46.8	.34
.70	13.96	9.7	.07	:: 1.075	71.58	49.8	.37
.725	17.09	11.9	.09	:: 1.10	75.98	52.9	.39
.75	20.24	14.1	.10	:: 1.125	80.39	56.0	.41
.775	23.49	16.4	.12	:: 1.15	84.81	59.0	.43
.80	26.75	18.6	.14	:: 1.175	89.26	62.1	.46
.825	30.20	21.0	.15	:: 1.20	93.71	65.2	.48
.85	34.04	23.7	.17	:: 1.225	98.21	68.4	.50
				:: 1.25	102.71	71.5	.53
				:: 1.275	107.34	74.7	.55
				:: 1.30	111.96	77.9	.57
<hr/> Number of employees <u>195</u>				<hr/> Average hourly earnings \$ <u>.74</u>			
Hourly wage bill \$ <u>.74</u>				Number of farms <u>14</u>			
FLSA minimums as of May 1968:				Cattle \$ <u>.50</u>			
				Other agricultural activities \$ <u>.47</u>			

Notes: "Degree of Impact" is defined in the text.  
Dash means zero or less than .05 percent.

**Source:** Survey conducted by the WHPC Divisions.



## The General Agriculture Industry in Puerto Rico

Page 1. Economic Report, September 1969.  
Revised definition:

The General Agriculture Industry in Puerto Rico is defined as follows: Farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur bearing animals, or poultry, and any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations including the preparation for market, delivery to storage or to market or to the carriers for transportation to market; Provided, however, That the general agriculture industry shall not include any activities included in the sugarcane industry in Puerto Rico as defined in Administrative Order 610, the food and related products industry in Puerto Rico (29 CFR Part 673), the sugar manufacturing industry in Puerto Rico (29 CFR Part 689), the tobacco industry in Puerto Rico (29 CFR Part 657), and the communications, utilities, and transportation industry in Puerto Rico (29 CFR Part 671): And provided, further, That the industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

Supplementary Tables 1 and 2. Estimated Production and Farm Value of  
Agricultural Commodities, Fiscal Years 1967-68 and 1968-69 1/

Commodity	Unit of production	Production		Value (\$1,000)	
		2/ 1967-68	3/ 1968-69	2/ 1967-68	3/ 1968-69
				\$269,109	\$259,032
Principal crops:				94,971	72,702
Sugarcane	1,000 tons	6,590	5,897	69,473	52,875
Tobacco	1,000 cwt.	112	.80	3,753	2,456
Coffee	1,000 cwt.	325	260	21,745	17,371
Livestock products:				117,845	124,887
Milk	1,000 qts.	381,056	385,437	65,215	69,279
Eggs	1,000 doz.	21,159	21,191	12,057	12,266
Beef	1,000 cwt. 4/	423	398	18,639	19,086
Pork	1,000 cwt. 4/	281	323	10,403	12,593
Poultry	1,000 cwt. 4/	251	254	11,531	11,663
Legumes:				NA	NA
Beans, dry		NA	NA	NA	NA
Pigeon peas	1,000 cwt.	98	100	2,535	2,211
Fruits:				8,261	8,055
Grapefruits	millions	13	14	281	314
Pineapples	1,000 tons	65	55	3,516	2,970
Oranges	millions	172	181	1,359	1,401
Avocados	millions	26	26	1,209	1,300
Citrons	1,000 cwt.	64	80	288	480
Mangoes	millions	54	50	351	325
Coconuts	millions	15	13	757	715
Others		-	-	500	550
Starchy vegetables:				20,864	24,570
Sweet potatoes	1,000 cwt.	230	244	1,840	1,830
Cassava	1,000 cwt.	110	100	495	500
Taniers	1,000 cwt.	275	296	3,025	3,191
Yams	1,000 cwt.	280	295	2,296	2,714
Dasheens	1,000 cwt.	100	110	525	578
Plantains	millions	215	243	7,955	10,500
Bananas	millions	702	751	4,303	4,807
Breadfruit	millions	17	15	425	450

See footnotes at end of table.

Supplementary Tables 1 and 2. Estimated Production and Farm Value  
of Agricultural Commodities, Fiscal Years 1967-68 and 1968-69 1/  
(concluded)

Commodity	Unit of production	Production		Value (\$1,000)	
		2/ 1967-68	3/ 1968-69	2/ 1967-68	3/ 1968-69
Other vegetables:				6,626	6,505
Tomatoes	1,000 cwt.	311	179	1,151	1,062
Peppers	1,000 cwt.	92	77	1,242	1,059
Cabbage	1,000 cwt.	55	53	247	239
Squash (pumpkin)	1,000 cwt.	300	303	1,236	1,249
All other		-	-	2,750	2,896
Cereals:					
Corn				NA	NA
Other farm products <u>5/</u>				7,998	11,059
P.M.A. benefit payments (except sugarcane)				10,009	9,043

NA: Not available.

- 1/ Excludes the quantity and value of farm commodities used for feed and fodder.  
2/ Revised.  
3/ Preliminary.  
4/ Carcass weight.  
5/ Includes corn, cotton, charcoal, ornamentals, honey and other miscellaneous farm products.

Source: Estado Libre Asociado de Puerto Rico, Departamento de Agricultura, Oficina de Estadísticas Agrícolas, Agosto 1969.

Supplementary Table 5. Quantity and Value of Shipments of Selected  
Agricultural Products from Puerto Rico to Other Parts of the  
United States, First 9 Months of 1968 and 1969

(In thousand pounds and dollars)

Schedule: P No.	Commodity	Quantity		Value	
		First 9 months		First 9 months	
		1968	1969	1968	1969
Total				\$74,716	\$54,076
Meat and edible offals					
including poultry:					
01100	Fresh, chilled or frozen	-	102	-	61
01200	Dried, salted or smoked	-	-	-	-
01300	Meat and meat products nec--prepared or preserved	-	-	-	-
02400	Cheese and curd	258	193	144	108
02900	Dairy products and eggs, nec.	NA	NA	432	6
05130	Bananas and plaintains, fresh	12	7	1	1
05160	Citrus fruits, fresh	-	-	-	-
05181	Pineapple, fresh	33,834	35,516	2,070	2,043
05182	Coconuts in the shell	4,452	3,570	232	186
05185	Fruits, nec--fresh, and nuts, nec--fresh or dried	559	561	89	94
05200	Fruit-dried, including artificially dehydrated	-	-	-	-
05351	Pineapple juice--canned, but not frozen <u>1</u> / <sub>2</sub>	50	37	26	27
05381	Pineapples--prepared or preserved, in airtight containers	5,334	4,593	834	1,845
05384	Citrons--in brine	1,926	1,514	217	220
05420	Beans, peas and other leguminous vegetables, dried	173	490	47	311
05440	Tomatoes--fresh	-	-	-	-
05491	Yams, fresh	1,874	1,916	410	691
05493	Taniers, fresh	241	60	40	11
05495	Dasheens, fresh	1,322	923	212	288
05497	Squash, fresh	469	58	54	28
05498	Mexican fruit (chayotes) fresh	244	215	25	62
05499	Vegetables, nec--fresh or dried	649	251	136	110

See footnotes at end of table.

Supplementary Table 5. Quantity and Value of Shipments of Selected  
Agricultural Products from Puerto Rico to Other Parts of the  
United States, First 9 Months of 1968 and 1969 (concluded)

(In thousand pounds and dollars)

Schedule: P : No. :	Commodity	Quantity		Value	
		First 9 months		First 9 months	
		1968	1969	1968	1969
06110	Sugar, raw	595,787	333,378	45,367	26,334
06120	Sugar, refined	219,243	191,988	21,528	18,593
07123	Coffee, crude	1,125	1,005	392	358
07125	Coffee--roasted; and coffee extracts, essences, concentrates and similar preparations	-	-	-	-
	Leaf tobacco, except cigar wrapper, grown in Puerto Rico:				
12111	Stemmed	230	105	408	175
12113	Unstemmed	71	1,549	57	1,123
12115	Tobacco, nec, including stems, trimmings, scrap, cuttings and siftings-- unmanufactured	3,288	2,349	1,996	1,402

Notes: Dash means zero or less than 500.  
nec -- Not elsewhere classified.  
NA -- Not applicable.

1/ The quantity of pineapple juice, canned, but not frozen, is  
reported in thousands of gallons.

Source: U.S. Bureau of the Census, U. S. Trade with Puerto Rico and U.S.  
Possessions, FT 800, monthly issues, January-September, 1968 and  
1969.



The General Agriculture Industry in Puerto Rico  
Economic Report, September 1969

Supplementary Table 6. Total Labor Force and Employment in Selected Agricultural Groups

(Thousands of persons 14 years of age and over)

Year	: Labor : force	: : Employed	: Agr. : total	: Sugarcane : farms	: Tobacco : farms	: Coffee : farms	: Other : farms
1969							
June	829	754	91	32	3/	14	44
July	819	735	76	19	3/	15	42
Aug.	811	726	69	14	3/	16	40
Sept.	816	731	70	11	3/	15	44

3/ Sample too small for reliable estimate.

Supplementary  
Table 16. Consumer Price Indexes for Urban Wage Earners and Clerical Workers in the United States and Wage Earners' Families in Puerto Rico, All Items

	<u>United States</u>	<u>Puerto Rico</u>
<u>1969</u>		
September	129.3	
October	129.8	

Supplementary Table 17. Consumer Price Indexes for All Items and for Foods in Puerto Rico

	<u>All Items</u>	<u>Food</u>	<u>Locally produced foods</u>	<u>Imported foods</u>
1969				
July	134.0	146.4	170.5	129.7
August	134.3	147.0	171.3	130.2
September				
October				

EX 4/13

(H. B. 445)  
(Conference)

EXHIBIT 3 (13) \_\_\_\_\_

(No. 142)

(Approved June 29, 1969)

AN ACT

To guarantee to the agricultural workers who are eligible in accordance with the regulations promulgated by the Secretary of Agriculture an income of not less than eighty (80) cents per hour during fiscal year 1969-70; not less than ninety (90) cents per hour during fiscal year 1970-71, and not less than one (1) dollar per hour during fiscal year 1971-72, and subsequent years; to appropriate to the Department of Agriculture the necessary sums for the carrying out of a reimbursement program to the farmers of Puerto Rico which may permit them to face the additional expenses entailed by the guaranteed income; to authorize the Secretary of Agriculture to classify the farmers into various groups and to promulgate regulations fixing the standards and the costs of the rates of reimbursement for each group and to establish the punishments and penalties for violations of this act.

## STATEMENT OF MOTIVES

Agriculture has and continues being a very important item in the economy of our country. However, for various reasons, this industry is experiencing difficult times. The cultivated fields have been completely reduced; the production cost have been raised, although agricultural wages are relatively low; workers have become scarce because they seek work in other more remunerative activities.

Through this act, there is hereby declared as a public policy of the Government of the Commonwealth of Puerto Rico to guarantee to the agricultural workers a greater income than the one they are receiving at present which will persuade them to continue working in agriculture in order to ease the shortage of manpower encountered by this industry, without raising the costs of production. Likewise, it is expected to raise the standards of living of said workers so that they may enjoy a more rewarding existence.

Therefore, the purposes of this act is to increase the income of the workers thereby reducing his absenteeism in agricultural activities, thus increasing the agricultural production through greater intensive work of planting, cultivation and harvesting.

However, the economic situation of the agricultural enterprises does not permit the farmers at present to pay wages in an amount equal or greater to the income desired

to be guaranteed to these workers.

For said reason and with the intention of aiding agriculture to regain its prosperity and to be able to pay wages equal to or greater than the incomes guaranteed by this act, a supplement is hereby established to the income actually received by certain agricultural workers to be determined in accordance with the provisions of this act, to be defrayed by the Government of the Commonwealth of Puerto Rico, by using the farmer as intermediary so that said income supplement will reach the workers through the mechanism established by this act.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Definitions: (a) It shall be understood by "agricultural workers" every person who works for pay in the agricultural industry of Puerto Rico with the exception of those working in the agricultural phase of the sugar industry.

(b) It shall be understood by "agricultural product dealer" every natural or artificial person, or partnership thereof, engaged in the purchase, sale, manufacture, exportation or commercialization of agricultural and cattle products produced in Puerto Rico.

(c) It shall be understood as "Secretary" the Secretary of Agriculture of the Commonwealth of Puerto Rico.

Section 2.- (a) Subject to the restrictions imposed by section 3 (c) of this act, there is hereby established for

the agricultural workers, a guaranteed income of not less than eighty (80) cents per hour during fiscal year 1969-70; of not less than ninety (90) cents per hour during fiscal year 1970-71; and not less than one (1) dollar per hour during fiscal year 1971-72 and subsequent fiscal years.

(b) The guaranteed income established by virtue of this act shall not alter any type of existing wages or that might be agreed or decreed after the date of effectiveness of this act for the various classifications of work in the agricultural industry.

The payment of the income supplements shall not be made for work performed during extra hours of work as defined in Act No. 379 of May 15, 1948, as amended, nor when the wages per hour corresponding to the worker by virtue of the legislation, mandatory decrees, collective agreements or work contract in force for the work performed during regular hours, equals or exceeds the income guaranteed by this act.

(c) The hours which entail extra pay in accordance with the legislation, mandatory decrees, collective agreements or work contracts in force, shall be paid at the corresponding extra rate, taking as a basis the existing minimum wage by virtue of the said legislation, decrees, agreements or contracts, whichever is greatest, but without taking into consideration, for any purpose, the income supplement guaranteed by this act.

(d) In interpreting this act, it must be taken into account that it has not been the legislative intention of raising the wages per hour, but of guaranteeing that no worker in the agricultural industry, qualifying as such under the provisions of this act, will have an hourly income lower than that therein established. As a consequence, it shall not be construed that the income supplement guaranteed by this act shall be a part of the prevailing wages, and any extra pay or penalty to which a worker is entitled under the laws, mandatory decrees, collective agreements or work contracts in force, shall be computed without including or taking into consideration, for any purpose, said income supplement.

Section 3.- (a) The farmers shall pay from their own private resources the wages in force by virtue of federal decrees, by decrees of the Minimum Wage Board of the Commonwealth of Puerto Rico, or those fixed, directly or indirectly, through contractual obligations, whichever is the highest, and shall likewise advance, the payments of the income supplement corresponding to the difference, if any, which might result between the highest of them and the hourly incomes guaranteed by this act. The Government of the Commonwealth of Puerto Rico, through the Department of Agriculture, shall compensate the approximate additional expense incurred by the farmers by virtue of the said advance.

(b) The Secretary of Agriculture is hereby empowered to classify the farmers of Puerto Rico into different groups, taking into consideration the different needs of manpower required to produce each kind of crop, on the basis of the grade of mechanism reached by each enterprise and each group of entrepreneurs, the wages paid in Puerto Rico in each kind of agricultural activity and any other factor which, in the judgment of the Secretary, should be taken into consideration. For each one of these groups the Secretary shall fix a rate of reimbursement using as a basis the production unit or area of land planted or those other basis as determined by regulation taking into consideration the nature of the agricultural enterprise involved and its marketing system. Said rates may be changed for each year. The regulations containing these rates, as well as the standards and procedures to be followed in this program, shall be filed annually by the Secretary in the office of the Secretary of State of Puerto Rico not later than 90 days after the beginning of each corresponding year.

(c) The Secretary shall establish by regulation effective July 1, 1969, the appropriate criteria which shall govern the determination of which workers shall be eligible to receive the benefits of this act. Within said criteria, the Secretary may consider the number of hours to be worked weekly by the workers in relation with the farming or seasonal or



off-season agricultural activities, the number of workers employed by each employer, and any other matter which may be favorable in obtaining the purposes of this act, giving special consideration to the fundamental objective that the reimbursements made, correspond as far as possible, to the payments made to the workers.

(d) The agricultural product dealers and the farmers shall be bound to render to the Secretary or to the subordinate officer in whom he may delegate, within the term fixed by regulation, those reports that the Secretary may request for the computation of the data on which there shall be based the reimbursements that the Government of the Commonwealth of Puerto Rico pledges to make to compensate the farmers for the approximate additional expenses incurred in the compliance of this act.

(e) The reimbursement payments to the farmers shall be made not later than 90 days after the Secretary has received the reports referred to in previous subsection (d).

Section 4.- In regard to claims which the laborers or workmen may have under this act, there shall apply the provisions in the labor legislation in force or that might be approved in the future, including everything in relation to the use of special procedures and prescriptive terms. In the investigation of the claims filed by workers under this

act, the Secretary of Labor is hereby empowered, in accordance with the labor legislation in force, to order the production of books, documents, payrolls or any other materials necessary to the investigation carried out.

Section 5.- Every natural or artificial person who violates the provisions of this act in connection with the payment of the income supplement herein guaranteed shall be subject to the total payment of the indebted sums, and further, to the payment of an additional sum equal to the unpaid amount.

Section 6.- The Secretary is hereby empowered to adopt the necessary rules and regulations for the implementation of the provisions of this act. The regulations so adopted shall have force of law once the provisions of Act No. 112 of June 30, 1957, known as the "Rules and Regulations Act of 1958", have been complied with. The first regulation promulgated by the Secretary as provided in section 3 (c) of this act, being of an urgent character, shall not have to comply with the provisions of Act No. 112 of June 30, 1957, and shall have force of law from and after July 1, 1969.

Section 7.- In compliance with the duties imposed by this act, the Secretary or the subaltern officer designated by him, may issue summons requiring the appearance of witnesses and the presentation of data or information that the Secretary or the subaltern officer designated by him, may consider

necessary, including payrolls, salaries and hours of work records and accounting books.

If a summons issued by the Secretary or by the subaltern officer designated by him, were not duly complied with, the Secretary, or the subaltern officer designated by him, may appear before any Part of the Superior Court of Puerto Rico and request that the Court order compliance with the summons. The Superior Court shall give preference to the expedition and dispatch of said petitions and shall have the authority to issue orders making compulsory the appearance of witnesses or the presentation of any data or information that the Secretary, or the subaltern officer designated by him, has previously required. The Court shall be empowered to punish for contempt disobedience to its orders.

No person may refuse to comply with a summons of the Secretary or of the subaltern officer designated by him, or of a judicial order so issued alleging that the testimony, data or information required might incriminate him or render him liable to a penalty, but said person may not be criminally prosecuted in connection with any transaction, matter or thing, in regard to which he has given testimonial or produced data or information.

Section 8.- Any person impaired by an order or decision of the Secretary may request the reconsideration of said order or decision before the Secretary, within 15 days from and after

the date of the sending by mail or by personal delivery of the notice of the decision or order. The Secretary shall establish, through regulations, the procedure to be followed for the holding of the reconsideration hearings, granting to the interested party the right to be represented by an attorney, to present and to cross-examine witnesses, and to produce evidence. Said reconsideration hearing may be presided by the Secretary or by the officer or officers in whom he may delegate.

Any person affected by the decision of the Secretary in the reconsideration hearing, or to whom it has been denied, may request the review of said decision before the Superior Court, which may, at its discretion, grant or deny same. The review petition shall be filed in the Court within the 15 days reckoning from the date of the sending by mail or by personal delivery of the notice of the decision. Once the corresponding appeal for review has been filed, the Court shall order the Secretary to submit a certified copy of the records of the proceedings in the reconsideration hearing.

While the appeal for review established by this section is being transacted, the effect of the order or decision shall not be stayed, except in those cases where it is shown to the satisfaction of the Court that the execution of the order or decision shall cause irreparable damages to the affected party.

Section 9.- Any agricultural product dealer who violates the provisions of this act or the regulations hereunder promulgated, shall incur in a misdemeanor punishable by a fine of not less than fifty (50) dollars nor more than two hundred (200) dollars.

Section 10.- (a) For the reimbursement payments which the Department of Agriculture shall make to the farmer, in accordance with the provisions of this act, there is hereby appropriated to the Department of Agriculture from unencumbered funds in the Commonwealth Treasury the following sums for each one of the three corresponding fiscal years:

- (1) For fiscal year 1969-70, eight million (8,000,000) dollars.
- (2) For fiscal year 1970-71, eight million (8,000,000) dollars.
- (3) For fiscal year 1971-72, eight million (8,000,000) dollars.
- (4) The necessary amounts to compensate the advances, if any, corresponding to the fiscal years subsequent to the fiscal year 1971-72, shall be consigned in the General Budget of Expenses of the Commonwealth of Puerto Rico.

(b) The Secretary is hereby authorized to use up to five per cent (5%) from the appropriation provided for each fiscal year to cover the administrative expenses incurred in the

execution of the provisions of this act. The personnel appointed for such purposes by the Secretary shall be included in the noncompetitive service.

(c) Any surplus of the appropriations provided for any year may be used for the purposes of another similar measure approved during the same legislative session entitled: An Act to guarantee to the workers of the agricultural phase of the sugarcane industry who are eligible in accordance with the regulation promulgated by the Secretary of Agriculture, an income of not less than eighty (80) cents per hour during fiscal year 1969-70; not less than ninety (90) cents per hour during fiscal year 1970-71; and not less than one (1) dollar per hour during fiscal year 1971-72, and subsequent years; for the carrying out of a reimbursement program to the sugarcane growers which may permit them to face the additional expenses entailed by the workers guaranteed income, to authorize the Secretary of Agriculture to classify the sugarcane growers into various groups and to promulgate regulations fixing the standards and the amounts of the rates of reimbursement for each group, to establish penalties for violations of this act, and to appropriate funds to carry out the purposes of this act.

Section 11.- The income increase in three years as provided by this act has the effect of accumulating the cost of the income supplement during the year and previous years over

the cost of the supplement of the current year. It is the purpose of the Legislature to provide the necessary resources to supplement the income in the manner as provided by this act. The appropriations consigned for the payment of income supplements during the second and the third year of the effectiveness of this act, shall be construed as the intention of the Legislature and shall be modified in the manner as might be necessary to fulfill the expressed intention of the Legislature.

Section 12.- This act shall take effect July 1, 1969.



## Puerto Rico Farm Bureau -

Asociación de Agricultores de Puerto Rico

Member American Farm Bureau Federation

1605 Ponce de León Avenue

Sanjurjo, Puerto Rico 00910

P.O. Box 8114

Tel 722-2981

724-6867

-11-

### Tobacco

All our farmers are small, based on mainland economic standards. However, tobacco farmers are really the smaller. (See Table 4.)

A study of the tobacco industry reveals the following:

- 1- From 1951 to 1965 filler tobacco consumption in the U. S. has increased at a rate of 1.8 per cent per year.
- 2- Inventories of Puerto Rican filler tobacco have been increasing.

3- The proportion of our filler tobacco in cigar manufacturing in the U. S. has decreased from 24% to 10%.

In 1965, there was a crisis in the marketing of our tobacco due to the high inventory existing at the time. It was necessary for the Government of Puerto Rico to make a special appropriation to subsidize the marketing of some 10,000 pounds of our tobacco.

During the years 1966, 1967, 1968 and 1969 the Government of Puerto Rico has authorized three periods of subsidy for the marketing of our tobacco. The subsidy was 10% of the cost of the tobacco. The total amount of the subsidy was \$1,000,000. The Government has also authorized a loan of \$1,000,000 to the tobacco growers to help them with their marketing expenses. The loan is to be repaid by the growers over a period of five years.

# Puerto Rico Farm Bureau

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-19-

we have not achieved any significant degree of vertical integration.

3) In order to help this industry to survive, the Commonwealth Government has had to establish price guarantees during the last year, both for poultry and for eggs.

4) The price of animal feed is considerably higher in Puerto Rico than it is in the United States.

In the United States, it costs a little over 15 cents to produce a pound of poultry. It costs 24 cents in Puerto Rico. (See Table 8).

While wages have increased, productivity per dollar of payroll has decreased, from almost \$40 of production per \$1 of payroll in 1950 to nearly \$23 of production, per \$1 of payroll in 1959.

The Minimum Federal Wage now prevailing is 10 cents per hour. We urge that this minimum not be increased. (See table 1.)

Very truly yours,

Director, Department of Agriculture, Puerto Rico

Sancti Spiritus, Puerto Rico

Enclosed for information from this office is

the report of the Bureau of Statistics for 1959.

## Puerto Rico Farm Bureau -

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4.0-

In 1967, in public and private slaughterhouses, 731,307 heads of cattle were slaughtered, having a total weight of 41.5 million pounds of meat. Since Fiscal Year 1951 up to 1967 the number of cattle, its total weight, and the yield in meat per head have increased consistently.

Meat production has increased from 264 pounds to 305, i.e. an increase of 41 pounds, per head between the years 1951 and 1967. The data offered herein were obtained, mainly, from the Office of Agricultural Statistics, of the Department of Agriculture of Puerto Rico.

It is proper to point out that during Fiscal Year 1967 beef imported, either fresh or frozen, amounted to 12.7 million pounds, with a total value of \$25.3 million. These imports, in terms of pounds and dollars, represent the highest figures during the last 11 years. It also represented 23 per cent of our total meat and meat products imports in terms of pounds. The imports from United States represent 71 per cent of total imports. The following

is a breakdown of meat products imports in terms of pounds and dollars for the last 11 years.

TABLE 9

POULTRY CONSUMPTION IN PUERTO RICO  
(1950-51 - 1968-69)

Year	Local Production	Imports	Total Poultry Consumption (Thousands of Pounds)
(Thousands / Pounds)			
1950-51	12,414	2,407	83.76
1951-52	12,769	5,809	66.75
1952-53	17,675	15,729	52.51
1953-54	22,904	43,052	34.72
1954-55	24,455	61,644	28.40
1955-56	25,078	67,618	27.05
1956-57	25,307	67,484	27.32

Source of Information: Department of Agriculture  
Office of Agricultural Statistics.

TABLE # 9-A

LEGS CONSUMPTION IN PUERTO RICO 1950/51- 1958/59

Year	Total Production	Imports	Percentage of Total
(Dozen)			
1950-51	9,984	4,140	70.52
1951-52	20,948	6,841	61.94
1952-53	23,982	7,171	66.02
1953-54	19,880	12,911	59.93
1954-55	21,259	21,402	49.71
1955-56	21,191	17,720	54.46

Source of information: Department of Agriculture of P. R., Office of Agricultural Statistics.

# 12 SUPPLEMENTARY INFORMATION

Table 6.

The source of employment information given in Table 6, page B-12, is the Puerto Rico Department of Labor, Bureau of Labor Statistics, Employment and Unemployment in Puerto Rico. The definition of "employed" is:

Employed persons comprise those who, during the survey week, were either:

1. "at work" - those who did any work for pay or profit, or worked without pay for 15 hours or more on a family farm or business for a member living in the same household, or
2. "with a job but not at work" - those who did not work and were not looking for work but had a job or business from which they were temporarily absent because of illness, vacation, bad weather, industrial disputes, or layoff with instructions to return to work within 30 days of layoff. Also included are persons who had obtained new jobs at which they were scheduled to begin work within the next 30 days.

Puerto Rico: Employed persons, by major occupation, average for fiscal years 1967-68 and 1968-69

	<u>1967-68</u>	<u>1968-69</u>	
Farmers and farm managers	33	31	
Farm laborers and foremen	55	49	
Farm employment, total United States 1968 annual average		4,746,000	100
Hired		1,213,000	26
Family		3,532,000	74

Source: U. S. Department of Labor, Manpower Administration, Bureau of Employment Security, Farm Labor Developments June 1969.

Page 8 of the Economic Report -

Total net income generated in Puerto Rico is not available for fiscal 1969.

Page A-7.

Tobacco in its agricultural phase

2. All other operations .55 per hour

MR. MARKS: For the record, I would like to state what the statutory criteria are. I would also like to state the pertinent portion of the Regulations Part 511.

I would like to proceed, please, without interruption, if I may. If there are any questions afterwards, perhaps I might be in a position to answer them, but I would prefer to proceed without interruption.

First of all, in discussing and considering evidence, Regulations Part 511.13, in pertinent part, states what evidence and what testimony is admissible and for what purposes. We have a statement here in 511.13 that says:

"Testimony on behalf of an employer or group of employers as to inability to pay the minimum wage rate specified in Section 6(a)(1) or Section 6(b) of the Act, whichever would be applicable, or as to inability to adjust to a higher minimum wage rate than prescribed by any applicable wage order of the Secretary, shall be supported by tangible objective data filed as part of the prehearing statement under Section 511.8, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years for the individual firm or firms involved."

Now, this particular statement has to do with evidence received by the committee and what is required in order to testify on behalf of an employer as to inability to pay the minimum wage rates specified in Section 6(a)(1) or 6(b)--in this case it is 6(b), with respect to agriculture--or to adjust to a higher minimum wage rate than prescribed by an applicable wage order. I think this particular section speaks



for itself.

Now, this had to do with testimony which was received by this committee in public hearing. At this point the public hearing, the public record, has been closed. This committee is now in executive session to consider the evidence which has been received by it. Therefore, I would now like to draw the attention of the committee to the statute and the regulations which reflect the statutory criteria.

The statute contains the statutory criteria in Section 8(b), and the last sentence in Section 8(b) reads as follows:

"The committee shall recommend to the Secretary the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico or in the Virgin Islands a competitive advantage over any industry in the United States outside of Puerto Rico and the Virgin Islands."

This is also set forth in Section 511.10 of Regulations Part 511. I will also read this. It is practically the same language, it restates the statutory criteria, but I would like to read it.

"Each industry committee shall recommend to the Administrator the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry and will not give any industry in Puerto Rico, the Virgin Islands, or American Samoa a competitive advantage over

those wages up higher a bit in order to retain and maintain the work schedule for the farms. And so it is proof that wages need to be brought up higher, at least to the statutory minimum of \$1.30.

CHAIRMAN EISENBERG: Well, for this to be a proper motion before the committee my impression is that you would first have to address yourself to the implicit suggestion in that motion that the present industry groupings would be reduced so that all general agricultural industry would come under one structure. I think you have to address yourself to that first, and then make a rate proposal second.

Is that correct? Is that the way that should be done?

MR. MARKS: I think what he is suggesting-- I don't think he is really interested in that. I think what he is saying is that with respect to all present classifications, that they be retained, and that the rate for all present classifications be \$1.30. So it doesn't really make any difference.

CHAIRMAN EISENBERG: Is that the sense of your proposal?

MR. SCHACHTER: It doesn't make any difference so long as the \$1.30 be paid.

MR. SANCHEZ: Second the motion.

CHAIRMAN EISENBERG: Is there a discussion of that proposal?

MR. GARCIA MENDEZ: I call for the vote.

CHAIRMAN EISENBERG: If there is no objection, we will go to a vote. All in favor of the motion please raise your hand.

(Show of hands.)

CHAIRMAN EISENBERG: Let the record show that the three labor members vote in favor of the motion.

All opposed, please raise your hand.

(Show of hands.)

CHAIRMAN EISENBERG: Let the record show that the industry members and the public members vote against the motion.

Is there any other recommendation to come before the committee?

MR. GARCIA MENDEZ: Yes, sir.

There is a motion that the rates be left as they are under the Wage Order adopted December last year.

MR. MARKS: And that the classifications be the same?

MR. GARCIA MENDEZ: And that the classifications be the same.

MR. ORONOZ: Second the motion.

CHAIRMAN EISENBERG: Mr. Oronoz seconds the motion.

Is there discussion of that motion?

(No response)

CHAIRMAN EISENBERG: If there is no objection, we will proceed to a vote on the motion.

All in favor of the motion please raise your hand.

(Show of hands.)

CHAIRMAN EISENBERG: Let the record show that the three industry members vote in favor of the motion.

All opposed to the motion please raise your hand.

(Show of hands.)

CHAIRMAN EISENBERG: Let the record show that the three labor members and the three public members vote against the motion.

CHAIRMAN EISENBERG: Well, I stand ready to receive any motion from any member of the committee at this point.

MR. SCHACHTER: Was the motion voted on?

CHAIRMAN EISENBERG: The motion that was made by you, Mr. Schachter, has been voted on and it was defeated five to four.

MR. SCHACHTER: And the recess to reconsider has produced nothing?

CHAIRMAN EISENBERG: Mr. Garcia Mendez did not say it was to reconsider. He said he has nothing to report after his caucus.

Do we have any other motions to come before us at this time?

MR. KARRO: I have a motion, Mr. Chairman. It will require changes not only in the rates but in the classifications, and therefore, as has been explained, it will require really two motions. But so that the members will have the entire picture, I will read both the classifications and the figures together and then make my two motions separately.

My suggestion is that the following classifications and rates be adopted:

Dairy, 76.

Cattle, 72.

Pineapples, 68.

Tomatoes, peppers, aviculture, and floriculture, 66.

Tobacco, coffee, and other agricultural activities, 58.

Mr. Chairman, I now move you that the classifications be changed so that they will consist of the following:

1. Dairy Farms.
2. Cattle.
3. Pineapples.
4. Tomatoes, Peppers, Aviculture, and Floriculture.

MR. GARCIA MENDEZ: Just a minute. Tomatoes, peppers, aviculture, and floriculture.

MR. SCHACHTER: Aviculture and floriculture.

MR. KARRO: 5. Tobacco, coffee, and other agricultural activities.

MR. HARRIS: Would you repeat for me your rate on that last one?

MR. KARRO: Fifty-eight.

CHAIRMAN EISENBERG: Is there a second to the first part of this motion?

MR. LEWIS: Second the motion.

CHAIRMAN EISENBERG: Mr. Lewis seconds it.

Is there discussion?

MR. MARKS: Do you have tomatoes in there?

CHAIRMAN EISENBERG: Tomatoes, peppers, aviculture, and floriculture are the fourth category.

Mr. Lewis seconded the motion. Is there discussion of the motion?

MR. SCHACHTER: Mr. Chairman, to discuss the motion any further we would have to go on for three days, to say how a member of this committee, a public member of this committee, being charged with the responsibility to bring about the highest possible minimum rate,

Off the record.

(Discussion off the record.)

CHAIRMAN EISENBERG: On the record.

MR. KARRO: Mr. Chairman, I maintain my previous motion, understanding that I will later make another motion to set up special rates within the categories listed in my previous motion.

CHAIRMAN EISENBERG: All right, so that we now have before us a motion which specifies that there shall be five classifications of the general agriculture industry. The motion has been seconded in that form. Are we ready for a vote?

(No response)

CHAIRMAN EISENBERG: I take it that we are. All in favor of the motion please raise their hand.

(Show of hands.)

CHAIRMAN EISENBERG: Let the record show that the three industry members and public members Karro and Cordero Martinez vote in favor of the motion.

All against the motion, please raise your hand.

(Show of hands.)

CHAIRMAN EISENBERG: Let the record show that the three labor members and the Chairman vote against the motion.

The motion is carried, five to four.

MR. SCHACHTER: I move we adjourn, Mr. Chairman. That is all in the blue book, and I thank you very much for your patience.

CHAIRMAN EISENBERG: I won't accept a motion to adjourn. You had a presentation by Professor Karro, who indicated that there were

two parts to the motion. He was presenting the first part, and the second part is not yet before us. He indicated that in accordance with the requirements governing the operation of this committee, if there was going to be a revision of the classifications, that had to be voted first. Otherwise he would have put the entire motion in one single unit before us.

MR. HARRIS: What were we voting on at that point?

CHAIRMAN EISENBERG: We voted on five classifications as specified in Professor Karro's motion.

MR. SCHACHTER: Dairy farms, coffee, pineapples, tomatoes.

CHAIRMAN EISENBERG: That is not the way he put it. Dairy farms was one category. Cattle was the second.

MR. SCHACHTER: Let her read back the motion. She has got it all in the record. We are on the record, Mr. Chairman, and surely the record would show what motion he made and what was passed.

Mr. Harris was asking what was in the motion. There is no point in debating it. I thought I was considering--

MR. HARRIS: You were just voting on the classifications?

CHAIRMAN EISENBERG: Just on the classifications at this point.

MR. SCHACHTER: The rates that he mentioned before were not voted on yet?

CHAIRMAN EISENBERG: Not yet. The rates are to come forward in the second part of a two-part motion.

MR. KARRO: Now, Mr. Chairman, I want to move that the classification for dairy farms be subdivided into three entitled:

1. Driver and arts and crafts worker.



2. Tractor operator.

3. Other workers.

Similarly, that the classification for pineapples be divided into two classes, one which reads:

Driver, tractor operator or operator of any other agricultural motor machinery, arts and crafts worker, and any other similar occupations; and

2. All other workers.

In explanation of this motion I want to state that these are the sub-classifications in the corresponding mandatory decrees. The sub-classifications for pineapples will be found on page A-6 of Exhibit No. 6, and the sub-classifications for Dairy Farms will be found on page A-2 of the same exhibit.

CHAIRMAN EISENBERG: Is the motion seconded?

MR. GARCIA MENDEZ: I second the motion.

CHAIRMAN EISENBERG: Mr. Garcia Mendez seconds the motion. Is there discussion of this motion?

MR. SCHACHTER: Yes. We are dealing in classifications as to which this one member of the committee knows nothing about. I don't know the job content, their requirements. They are subdivided into various regions, I don't know what they do, and I think a complete study of this ought to be shown, what they do, how they arrive at it, what this arts and crafts means. We have nothing in this record which shows that, and I think it is unfair to put it to a motion and even to a vote. What we are dealing with is what we see in this blue book, and if we are going to have a job study made of various grades

right. But we did not have sufficient evidence, nor discussion, debate or otherwise, for a motion which you now want to put and call it valid at this late hour, without any discussion.

I invite you, sir, to open that thing tomorrow if you want to discuss it further. The hour is 5:30.

CHAIRMAN EISENBERG: I don't think we will be in a better position tomorrow than we are today, because you have indicated your ground for the opposition to this motion is that we have no more data in the record than what appears in the blue book, and we are not going to be in any better position tomorrow than we are today, and I can tell you that my own opposition to the motion that was just put is in part on the grounds that have been recited, that we do not have sufficient data to justify a reordering of these categories in the forms in which they are put, and it seems to me that the only basis on which we can act, given a motion such as this before us, is in part on what is on the record and in part whatever we think perhaps should have been in the record but is not there, and I think you have your opportunity to express your position when we come to the voting.

It is a proper motion before us and I will call for a vote.

Is there any other discussion? If not, all in favor of this motion adding certain further classifications as presented by Professor Karro, would you please raise your hand?

(Show of hands.)

CHAIRMAN EISENBERG: Let the record show that the three industry members and Professor Karro and Mr. Cordero Martinez vote in favor.

All opposed to the motion, please raise your hands.

(Show of hand.)

CHAIRMAN EISENBERG: Let the record show that the Chairman votes against the motion.

All abstaining, will you please raise your hands?

(Show of hands.)

CHAIRMAN EISENBERG: Let the record show that the three labor members abstain.

MR. SCHACHTER: Let the record further show the reasons for our abstention as stated before, plus that I think at this time to bring in categories which have not been testified for or against, never been brought before us, in my opinion is merely to cover up more of the misdoing that has already been presented.

MR. GARCIA MENDEZ: Mr. Chairman, may I explain my vote?

CHAIRMAN EISENBERG: Please, if you wish.

MR. GARCIA MENDEZ: Mr. Chairman, I seconded and voted for this motion for the simple reason that this is not in any way penalizing anyone but, on the other hand, inserting into the general classification, especially the dairy and the pineapple classification, classifications which are much, much higher than the general classification, so that no harm is done to labor and, on the other hand, a guarantee is established, with the approval of this motion, that the Wage and Hour committee can enforce these classifications which are of skilled workers and which have formed part of the Mandatory Decree No. 27, 4th revision, it being the legal principle established that if there are two different classifications, one

local and one Federal, the higher shall prevail, and inasmuch as it does no harm to anyone, and yet protects labor, I have seconded and we have voted for the motion.

CHAIRMAN EISENBERG: With that explanation, Professor Karro, will you complete your motion?

MR. KARRO: All right.

Now, Mr. Chairman, I move you that the rates-- Was that passed?

CHAIRMAN EISENBERG: That motion was carried five to one, with three abstaining.

MR. KARRO: I now move that the following rates be set for the classifications already decided on.

For dairy farms:

1. Driver and arts and crafts workers, \$1.10.

For tractor operators, \$1.05.

For other workers, 76 cents.

Cattle, 72 cents.

Pineapples, the first sub-category:

Drivers, tractor operators, or operators of any other agricultural motor machinery, arts and crafts workers, and any other similar occupations, 95 cents.

Other workers, 68 cents.

Tomatoes, peppers, aviculture and floriculture, 66 cents.

Tobacco, coffee, and other agricultural activities, 58 cents.

CHAIRMAN EISENBERG: Is the motion seconded?

MR. CORDERO MARTINEZ: Second the motion.

CHAIRMAN EISENBERG: Is there discussion of the motion?

CHAIRMAN EISENBERG: I would think that that would have been more appropriate when we were discussing the categories. Right now it is simply a matter of considering rate proposals.

MR. SCHACHTER: I objected to those categories.

CHAIRMAN EISENBERG: You did object, but you didn't vote against them, you abstained from voting.

MR. SCHACHTER: I don't know what they are. I don't know what a pushcart driver is versus a bicycle driver when there has been no testimony.

CHAIRMAN EISENBERG: The point has been made and it has been repeated in the categories proposed in Professor Karro's motion. We now have rates proposed, and it seems to me questions pertaining to the rates themselves would be in order, but we are at a point now when the motion has been called for a vote, and I simply asked whether there was any final comment pertaining to this motion on the rates.

MR. GARCIA MENDEZ: Mr. Chairman, motions of order are not debatable. So, I mean, it is up to the Chair to decide.

CHAIRMAN EISENBERG: The vote has been called for. I would call the question.

All those in favor of the motion containing these wage rate recommendations made in Professor Karro's motion, would you please raise your hands?

(Show of hand.)

CHAIRMAN EISENBERG: Let the record show that the three industry members and the two public members, Professor Karro and Mr. Cordero Martinez, vote in favor of the motion.

Those against the motion, please raise your hands.

(Show of hands.)

CHAIRMAN EISENBERG: Let the record show that the three labor members and the Chairman vote against the motion.

The motion is carried, five to four.

MR. MARKS: Off the record.

(Discussion off the record.)

CHAIRMAN EISENBERG: Let's go back on the record.

May I then ask if there is any other business that any member of the committee wishes to put before it before this committee adjourns?

MR. HARRIS: I would like to inquire--

CHAIRMAN EISENBERG: Let me complete my statement, because I wish to advise all of the members of the committee that upon adjournment the decisions taken by vote of the committee will be regarded as final and binding and that all that will remain to be done will be for the staff to undertake to prepare an appropriately edited written recommendation for signature by the members of the committee and for presentation, in turn, to the Secretary of Labor. And we will, of course, ask the members of the committee to return tomorrow morning, or whatever time is set for the examination of the draft that is to be prepared by the staff for consideration by the committee members and for editing as the committee members think is appropriate, considering what the committee has done.

So if you have something else that should come before this committee before we adjourn, please, now is the time to put it before the committee.





**United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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SINDICATO PUERTORRIQUENO DE  
TRABAJADORES, et al.,  
*Petitioners,*

v.

JAMES D. HODGSON, SECRETARY  
OF LABOR, et al.,  
*Respondents.*

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ON PETITION TO REVIEW A MINIMUM  
WAGE ORDER ISSUED UNDER THE  
FAIR LABOR STANDARDS ACT

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**BRIEF FOR THE PETITIONERS**

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United States Court of Appeals  
for the District of Columbia Circuit  
ALBERT WOLL  
736 Bowen Building  
815 Fifteenth Street, N.W.  
Washington, D.C. 20005

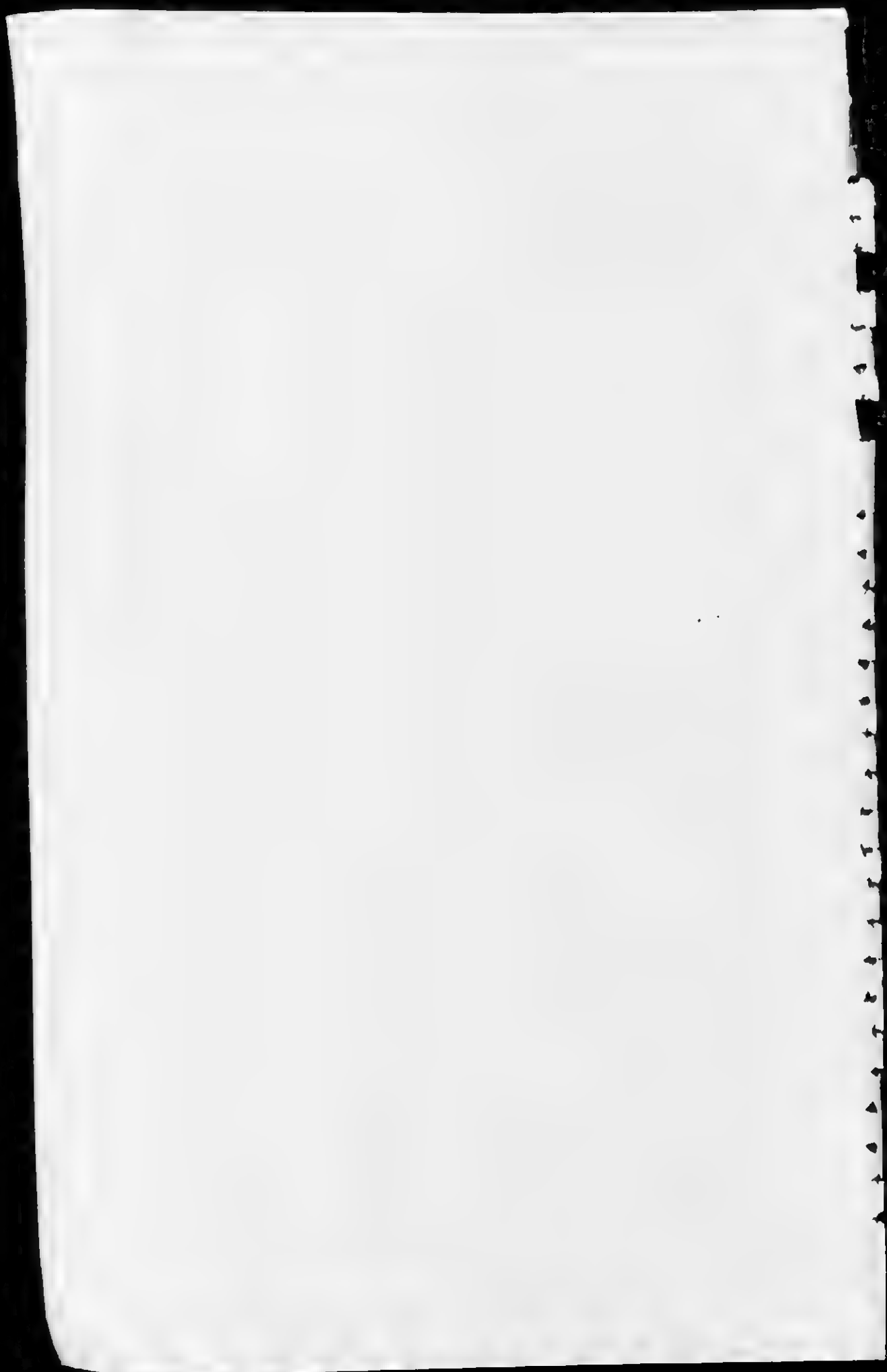
FILED

DEC 26 1970

*Attorney for the Petitioners*

*Nathan J. Paulson*  
CLERK

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**United States Court of Appeals**  
**FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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**No. 24,057**

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**SINDICATO PUERTORRIQUENO DE**  
**TRABAJADORES, et al.,**  
*Petitioners,*

**v.**

**JAMES D. HODGSON, SECRETARY**  
**OF LABOR, et al.,**  
*Respondents.*

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**ON PETITION TO REVIEW A MINIMUM**  
**WAGE ORDER ISSUED UNDER THE**  
**FAIR LABOR STANDARDS ACT**

---

**BRIEF FOR THE PETITIONERS**

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**STATEMENT OF THE ISSUE PRESENTED**

Whether an Order setting a scale of minimum wages for the Puerto Rican General Agricultural Industry, well below the \$1.30 statutory minimum, is invalid on the ground that there was no demonstration through tangible objective data, including income and expense statements, that the employers covered by the Order could not meet either a higher scale or the statutory minimum itself.

The instant case has not previously been before this Court.

## REFERENCE TO RULING

The Minimum Wage Order sought to be reviewed is reported at 35 F.R. 1105 (Jan. 28, 1970) (A-1a).

## STATEMENT OF THE CASE

### 1. *The Procedural Background*

On January 28, 1970, the Secretary of Labor published an Order at 35 F.R. 1105 setting a scale of minimum wages from 58¢ an hour to \$1.10 an hour for employees of Puerto Rico's general agricultural industry (A-1a). This Order was issued pursuant to the authority vested in the Secretary by §8(d) of the Fair Labor Standards Act, 29 U.S.C. 208.

As §8(a) requires, the Order was preceded by the convening of an industry committee (No. 89-A), comprised of three "public" members, three "industry" members and three "labor" members, see §§5(a) and 5(b), charged with the responsibility of:

"recommend[ing] to the Secretary the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not subsequently curtail employment in the industry" (§8(b)).

In conformity with the Notice of Hearing, 34 F.R. 17732, Industry Committee 89-A held public hearings at Santurce, Puerto Rico, from December 8 to December 10, 1969, during which it received evidence from all interested persons who sought leave to appear.

Thereafter, by a 5 to 4 vote (the Chairman and the three "labor" members dissenting), it issued its Report, Findings of Fact and Recommendations (A-3 to A-21). As the Act contemplates, the Committee's recommendations were adopted by the Secretary exactly as made, see §8(d).

The instant case was then brought to this Court by a petition to review filed under §10 of the Act by the Sindicato Puertorriqueno de Trabajadores, affiliated with Amalgamated Meat Cutters and Butcher Workers of North

America, AFL-CIO, a labor union representing agricultural employees, which presented testimony and argument to the Industry Committee in support of a higher minimum wage than was finally ordered, and by Modesto Rivera, Guillermo Perez and Gregorio Pabon, employees working in the industry in question, for themselves and as representatives of the class of employees of that industry (A-22 to A-24).

## 2. *Industry Committee No. 89-A's Report*

The initial portions of the Committee's Report are not the occasion of controversy and may be briefly summarized. The Report first sets out the sources of the Committee's authority, and the scope and purpose of the hearings (A-3 to A-4). Next, the Report states the official definition of the General Agricultural Industry, noting particularly that sugar was not within the Committee's province, and the then current scale of minimum wages (A-4 to A-5). Third, the Report concludes that it is necessary to establish separate classifications in the General Agricultural Industry, compare, §8(c), and that the occupational definitions set out in "the mandatory decrees of the Commonwealth of Puerto Rico" will be followed (A-5 to A-8).

After disposing of the foregoing preliminaries the Report turns to the essence of its task—the exposition of the *rationale* for the minimum wages recommended. That *rationale* in its entirety is (A-8 to A-11):

"In 1967, 1,785,000 acres of land were devoted to agriculture in Puerto Rico. Of this, approximately 35 percent was used as cropland, 44 percent as pasture, 17 percent was in forest and brush, and 4 percent in other uses.

"Traditionally, sugarcane, coffee, and tobacco formed the mainstay of Puerto Rico's agriculture. During crop year 1967-68, the traditional money crops of sugarcane, coffee, and tobacco accounted for 35 percent of the total farm value of agricultural commodities, which in crop year 1967-68 amounted to \$95.0 million out of a total of \$269.1 million.

"During fiscal 1968-69, these three crops accounted



for 28 percent of the farm value of agricultural commodities, which amounted to \$72.7 million, out of a total of \$259.0 million. The decrease in shipments is largely due to the decline in the production and shipment of raw sugar.

"The island's general economic progress and rising standard of living have greatly increased the demand for all livestock products. The value of livestock products increased during the 5 years, rising by 20 percent from almost \$103.9 million in 1964-65 to \$124.9 million in 1968-69. The production of milk in 1968-69 amounted to nearly 385.4 million quarts with a farm value of \$69.3 million, or nearly 27 percent of the total farm value of agricultural commodities. Egg production has shown a consistently upward trend, reaching a level of 21.2 million dozens in 1968-69, with a farm value of nearly \$12.3 million.

"Coffee is the second most important money crop in Puerto Rico and most of the coffee grown in Puerto Rico is consumed locally. The area harvested has remained constant at above 160,000 cuerdas for over 15 years. Average yearly employment was 18,000 in 1968 compared with 20,000 in 1967 and 18,000 in 1966. In 1967-68 the production of coffee totaled 325,000 hundredweights, compared with 260,000 hundredweights in 1968-69.

"The tobacco grown in Puerto Rico is used exclusively as cigar filler. In recent years, the amount of land in tobacco has dropped off sharply. In 1967-68 production amounted to 112,000 hundredweights and in 1968-69 was 80,000 hundredweights. The farm value of production has had a corresponding loss.

"Pineapples are the most important of the fruit crops. Production on a commercial scale is a relatively recent development on the island and most of the pineapple crop is shipped fresh to the U.S. mainland. Between 1961-62 and 1964-65, production increased from 57 thousand tons to 80 thousand tons with a farm value of \$2.5 million and \$3.9 million, respectively. Although there was a substantial gain in output in this 4-year period, the upward trend was interrupted. The quantity of production steadily declined with production in 1968-69 amounting to 55 thousand tons with a farm value of \$3.0 million. The output of most other field crops in Puerto Rico has shown a general tendency to decline or remain stable in the past 5 years.

"Since World War II, the nonagricultural sectors of the Puerto Rican labor force grew steadily while the agricultural sector declined. Between fiscal year 1950 and 1968, the annual average number of workers employed in the entire labor force rose from 596 thousand to 701 thousand, while the number of workers in agriculture dropped from 214 thousand to 91 thousand. Losses of employment in sugar were the greatest, but other crops also were affected.

"In May 1969, the Wage and Hour and Public Contracts Division conducted a survey of a selection of farms covered by the definition of the General Agriculture Industry in Puerto Rico. The number of farms, the number of covered employees, and the average straight-time hourly earnings of these employees by wage order classification are as follows:

"Classification and date	Number of farms	Number of covered employees	Average straight-time hourly earnings	Applicable wage order minimum
<i>Coffee</i>				
November 1968—Harvesting	64	1,103	\$0.78	\$0.50
May 1969—Planting	50	566	.57	.53
<i>Tobacco</i>				
August 1968—Planting	2	10	.54	.47
May 1969—Harvesting	3	24	.58	.52
<i>Dairy farms</i>				
May 1969	125	1,720	.83	.70
<i>Pineapple</i>				
May 1969	3	332	.72	.65
<i>Tomatoes, peppers, aviculture and floriculture</i>				
May 1969	7	209	.78	.62
<i>Cattle and other agricultural activities</i>				
May 1969	14	221	.79	.55

"The Commonwealth of Puerto Rico provided by the Legislature of Puerto Rico under Act No. 142, effective June 30, 1969, a guaranteed income supplement benefit to all remunerated workers employed in agriculture in Puerto Rico earning less than a specified amount. The guaranteed income supplement benefits all remunerated workers earning wages for each regular hour of work lower than the ones specified in the act: 80 cents during fiscal year 1969-70, 90 cents during fiscal year 1970-71, and \$1.00 during fiscal year 1971-72 and subsequent years.

"In view of these facts and on the basis of the entire record, the Committee finds that, having due regard to

economic and competitive conditions, the minimum wage rates set forth in the recommendations below are the highest minimum wage rates for the industry, which will not substantially curtail employment in the industry and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands and American Samoa.

### RECOMMENDATION

	Minimum wage rate
• • •	
"Classification	
Dairy farms, drivers and arts and crafts workers .....	\$1.10
Dairy farms, tractor operators .....	1.05
Dairy farms, other workers .....	.76
Cattle .....	.72
Pineapple farms, drivers, tractor operators, or operators, of any other agricultural motor machinery, arts and craft workers, and any other similar occupation .....	.95
Pineapple farms, other workers .....	.68
Tomatoes, peppers, aviculture and floriculture .....	.66
Tobacco, coffee, and other agricultural activities .....	.58"

The foregoing recommendations, and the reasons therefor, drew sharp criticism. In his dissent, the Chairman, Professor Eisenberg, stated (A-21):

"The record before us contains virtually no valid data on the financial condition of the industry, and certainly no data which could show that substantial increases in Federal wage minima would have an adverse impact on the industry and its workers. The record does not, in my opinion, yield any other compelling, convincing or indicative grounds for setting the Federal wage minima at levels so far below the legally permissible minimum for agriculture."

And in their dissent the three "labor" members argued (A-14, A-17 to A-19):

"These proceedings are a sham . . . the particular rates recommended are not supported by any evidence

before the Committee, and derive solely from the predilections of the committee members.

. . .

"The statute and the regulations establish criteria which are supposed to guide industry committees in their wage rate recommendations . . . Industry committees are supposed to operate in quasi-judicial fashion . . . In fact, however . . . employers, and their representatives on the industry committees, [often] make generalized pleas of inability to pay, substituting emotional appeal for tangible objective data; and the committee members then vote wage recommendations on the basis of their preexisting predilections.

"That is exactly what happened in this Committee.

"The employers admittedly submitted no financial data meeting the specifications of [29 C.F.R.] 511.13, with the sole exception of financial statements filed by a single dairy (Flores Dairy, Inc.). Instead employer witnesses gave generalized testimony as to inability to pay, which was inadmissible under Sec. 511.13.

"Mr. Juan Garcia-Mendez, who is an employer member of this Committee and has served as such on innumerable other Committees, took the position, as will appear from the transcript, [A-69] that it was not up to the employers pleading inability to pay to adduce data in support of that claim, but rather that the burden of proof was on those claiming that the employers could pay. Mr. Marks, Regional Attorney for the Labor Department, advised the Committee that this position of Mr. Garcia-Mendez was not well founded, and that the burden of proving inability to pay rested on the employers. Nevertheless, and though that burden was not met by any evidence competent under the regulations, the Committee majority recommended a set of exceedingly low minimum wage rates.

"The wage rates voted by the Committee majority were without exception *below* the 80 cent minimum wages now being paid under Act No. 142. Presumably the Committee concluded that even the rates now being paid would 'substantially curtail employment' because of the farmers' inability to pay. As stated, there was no competent evidence (with one minor exception) before the Committee on inability to pay, and the Com-

economic and competitive conditions, the minimum wage rates set forth in the recommendations below are the highest minimum wage rates for the industry, which will not substantially curtail employment in the industry and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands and American Samoa.

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"The wage rates voted by the Committee majority were without exception *below* the 80 cent minimum wages now being paid under Act No. 142. Presumably the Committee concluded that even the rates now being paid would 'substantially curtail employment' because of the farmers' inability to pay. As stated, there was no competent evidence (with one minor exception) before the Committee on inability to pay, and the Com-

monwealth has concluded that it is *low farm wages* that 'substantially curtail employment.' The 'Statement of Motives' found in Act No. 142 recites: . . .

"Through this act, there is hereby declared as a public policy of the Government of the Commonwealth of Puerto Rico to guarantee to the agricultural workers a greater income than the one they are receiving at present which will persuade them to continue working in agriculture *in order to ease the shortage of manpower encountered by this industry*, . . ."

"As is apparent from what has been said, the particular rates recommended by the Committee majority have no support in evidence before the Committee. They are simply drawn from the otherwise salubrious Puerto Rican air. . . ."

"We believe that a minimum wage rate of \$1.30 an hour should be recommended for all agricultural employees, which is the same as the mainland minimum. There is no competent evidence before the Committee that employers are unable to pay that amount, and unless future industry committee proceedings are to be the same sort of travesty as this one, employers pleading inability to pay should be required to meet the standards set forth in Sec. 511.13." (Emphasis in original.)

### ARGUMENT

ORDERS SETTING A SCALE OF MINIMUM WAGES LESS THAN THE STATUTORY MINIMUM MUST BE SUPPORTED BY A DEMONSTRATION THROUGH TANGIBLE OBJECTIVE DATA THAT THE COVERED EMPLOYERS COULD NOT MEET EITHER A HIGHER SCALE OR THE MINIMUM WAGE ITSELF.

1. As this Court emphasized in *Red Star Mfg. Co. v. Grimes*, 95 U.S. App. D.C. 244, 246; 221 F.2d 524, 526 (C.A. D.C., 1954):

"The policy of [the] Act with respect to [the agricultural industry] . . . is to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage [of \$1.30 an hour]'. " (This Court's emphasis.)



This is "the primary mandate of §8(a)," 95 U.S. App. D.C. at 250; 221 F.2d at 530. In conformity with this mandate, §8(b) directs industry committees to recommend:

"The *highest* minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry." (This Court's emphasis.)

Thus §8 recognizes the statutory minimum wage set in §§6(a) and 6(b) as the basic norm. The industry committee procedure provides for downward adjustments from that norm in Puerto Rico to the extent required by economic and competitive necessity. In the absence of a showing of such necessity §8(a) makes it plain that the statutory minimum is to apply. Moreover, these adjustments are limited by the injunction of §8(b) that the wages set be the highest possible.

In light of the policy enunciated in §8(a), and the plain language of §8(b), establishment of a minimum wage less than that set in §§6(a) and 6(b) must be based on a demonstration that no higher figure would be justified. As a matter of economic theory, as well as common sense, detailed statements of the economic situation of the covered employers as a group over a period of time, with special emphasis on gross income and expense figures are a necessary, though not sufficient, condition to such a demonstration.<sup>1</sup> For the "highest minimum wage . . . which will not substantially curtail employment" is the function of the covered employers' ability to pay and of the elasticity of their demand for labor. To paraphrase Professor Lester's discussion of the process of wage negotiation:

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<sup>1</sup> Data relating to the covered employers as a group is necessary for two reasons. First, the Act only reaches agricultural employers who utilize more than 500 man-days of hired labor a quarter (A-85 to A-86). Thus the Secretary's order, in a case such as the instant one, binds only such farmers, rather than all the farmers in Puerto Rico. Second, the abnormal situation of the weakest factors in an industry does not set the limit on the proper minimum wage, see, *Columbus & Georgia Ry. Co. v. Administrator*, 126 F. 2d 136, 140 (C.A. 5, 1942). It is, therefore, the economic situation of the covered employers as a group that is relevant.

"[Minimum] wages are administered wages, but there are limits to the range of administrative latitude . . . That is because differences in product markets, profit margins, labor equipment ratios, labor cost ratios, and similar factors affect a firm's, or an industry's, ability to pay relatively high wages." R. Lester, *Economics of Labor*, 284-285 (2d ed., 1964).

The basic, and inescapable restraint on wages is the employers' ability to pay. If their total wage bill continuously exceeded their gross income less other necessary expenses, the only rational expectation would be that they would cut their work force or if that were not feasible that they would close down. Moreover, to the extent that they have a choice, rational employers seek to minimize every component of their cost of doing business. Thus, it must be expected that employers who are able to absorb a rise in wages will nevertheless attempt to minimize this added cost by hiring fewer employees as long as they can achieve a savings by substituting other factors of production. The extent to which such substitution is feasible determines the elasticity of their demand for labor.

In the instant context both "ability to pay" and "elasticity of demand for labor" are complex concepts whose quantification requires a substantial amount of data.<sup>2</sup> However, these complexities should not obscure the fact that setting the limits on the "highest minimum wage . . . which will not substantially curtail employment" cannot be undertaken until the covered employers' income and expense figures have been ascertained. The projections made by the industry committee are meaningful only to

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<sup>2</sup> Since it sets a standard that will apply in the future, an industry committee deals in projections. Thus, it must concern itself not simply with past performance but also with the concerned employers' prospects. This requires *inter alia* consideration of the nature and elasticity of demand for the employers' products, the situation of the employers' competitors, and the probable course of action of suppliers of necessary raw materials and services. And a determination of "elasticity of demand for labor" requires consideration of the state of the relevant technology, the availability of capital resources, entrepreneurial judgment, etc. See, A. Marshall, *Principles of Economics*, 383-386 (8th ed., 1920).

the extent that the starting point is known. That starting point is the present economic situation of the covered employers relating to gross income, profits, losses and labor expenses. The fact that it is anticipated that demand will fall 10% has a different significance in an industry that has known high profits than in one that has not. And the impact of a 10% rise in wages is obviously different in an industry in which labor costs are 20% of expenses rather than 40%. The sum of the matter is this: it is inherent in the Act that the ultimate issue for every industry committee is what can the covered employers as a group afford; and that issue cannot be dealt with without securing a detailed picture of their economic situation.

2. The Secretary, in promulgating his regulations under §5(c), has recognized the central importance of adequate income and expense data in industry committee proceedings. 29 C.F.R. 511.11 states:

"Among the types of data which may be considered pertinent . . . are those revealing employment and labor conditions and trends in Puerto Rico . . . and on the mainland . . .; market conditions and trends in Puerto Rico . . . and on the mainland . . .; comparative production costs in Puerto Rico, . . . on the mainland, and in foreign countries; *financial conditions and trends since promulgation of the present wage order as reflected in profit and loss statements and balance sheets.*" (Emphasis supplied.)

And §511.13 makes it perfectly plain that the proper focus of an industry committee hearing is the covered employers' economic situation:

"Testimony on behalf of an employer or group of employers as to inability to pay the minimum wage rate specified in section 6(a)(1) or section 6(b) of the Act, whichever would be applicable, or as to inability to adjust to a higher minimum wage rate than prescribed by any applicable wage order of the Secretary, shall be supported by tangible objective data filed as part of the prehearing statement under §511.8, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years for the individual firm or firms involved."

Thus, §511.13 sets the terms on which the issues of "inability to pay" or "inability to adjust to a higher minimum wage rate" are to be evaluated. Such claims "shall be supported by tangible objective data . . . including pertinent unabridged profit and loss statements and balance sheets for a representative period of years." And, of course, this regulation is binding on industry committees, *Vitarelli v. Seaton*, 359 U.S. 535, 539-540 (1959); *Bonita, Inc. v. Wirtz*, 125 U.S. App. D.C. 163, 167; 369 F.2d 208, 212 (C.A. D.C., 1966).<sup>3</sup>

The few decided cases reviewing industry committee determinations, as well as the Secretary's Regulations, support our view that the recommendations made must be based on the economic situation of the covered employers as revealed by their income and expense accounts. In *Opp Cotton Mills v. Administrator*, 312 U.S. 126, 140-141 (1941), the leading case in the field, the Court detailed the scrupulously exact findings of the Administrator as to the actual expenses of the affected employers and their significance:

"The Administrator found that the 32½ cent minimum wage would increase the average wage bill for the textile industry as a whole 4 per cent over the 25 cent minimum in effect before October 24, 1939, and 2.1 per cent over the 30 cent minimum in effect thereafter and that the wage increases in the southern portion of the industry would be 6.25 per cent and 2.15 per cent over the 25 and 30 cent minimum respectively. He further found that since the average labor costs do not constitute over 36 per cent of production costs the minimum wage increase would increase production costs slightly over one-third of the percentages of wage

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<sup>3</sup> As the Industry Committee's Report herein indicates, and as the "labor" members' dissent in the instant case points out explicitly, pp. 7-8, *supra*, there have of late been deviations from the requirements of §511.13. Nevertheless, so far as we have been able to ascertain, in general the Secretary has been cognizant of the impact of his own regulations, and in those cases in which he secures the cooperation of the employers, he has presented exactly the income and expense data we have argued is necessary. For the Court's convenience, we have appended two examples of such presentations prepared during 1969, the year that Industry Committee No. 89-A met.

increases just indicated, and that the increase in production costs would not result in such a rise in prices to ultimate consumers of the finished product as to decrease consumer demand.

"From all this he drew the conclusion that there would be no substantial curtailment of employment in the industry as a whole or in its southern branch as a result of the increased wage. In the case of small cotton mills in the south employing only 7 per cent of the southern cotton textile workers (5 per cent of all in the entire cotton industry), paying the lowest wages, he concluded that the new minimum rate as contrasted with the 30 cent statutory rate would raise manufacturing costs more than the 1.94 per cent average, and for these mills the increase would range from 2.77 per cent to 3.75 per cent. The Administrator found that curtailment of employment even in the mills paying the lowest wages would be dependent on total cost and the technological and general efficiency of each mill, and that low wages do not necessarily coincide with a low degree of efficiency. The Administrator found generally that the small southern mills are not necessarily marginal or the least profitable and that, accepting the figures submitted by the group of small mills opposing the 32½ cent minimum, the increase in labor costs for such mills would be 13.5 per cent and only 4 per cent in total manufacturing cost over the 25 cent minimum. The increase over the 30 cent minimum would be slightly over one-third of these percentages. The Administrator also found that a modernization program in these mills would displace only a small number of employees. From these and other facts detailed in the findings, the Administrator concluded that there would be no substantial curtailment of employment even in the group of small mills.

"The Administrator also considered the factors for determining whether classification should be made for wage differentials within the industry. . . .

"After considering the proportion of obsolescent machinery in northern and southern mills, their taxes, efficiency of workers, power and construction costs and profits, the Administrator found that the southern mills were at least in a position of equality with northern mills in so far as these factors affect production costs, and that after the establishment of the 32½ cent mini-

mum the prevailing minimum wages in the north would be considerably higher than in the south."

And in *Red Star Mfg. Co.*, this Court recognized, and dealt at length with, the significance of profit and loss data (95 U.S. App. D.C. at 248; 221 F.2d at 528):

"Petitioners also assert that during the preceding year, 1951, two of the three firms were losing money and the third, Red Star, was earning a return on its \$400,000 investment of only 2.5 per cent. But (1) 1951 was Red Star's poorest year of a four-year period during which its average net income after taxes was about \$46,000, for a return of approximately 12.5 per cent on its investment; and (2) Manati, established in 1948, had, according to its own spokesman, 'anticipated a loss to start with.' Moreover, the Administrator did not disregard the recent 'downward trend' in 'the profitability of the firms in Puerto Rico \* \* \*,' but found it to be a factor limiting the amount of the permissible increase. By thus taking the profit data into account, he has complied with the statutory directive to consider 'economic and competitive conditions'." (Footnotes omitted.)

3. The Industry Committee's Report, on its face, demonstrates that the recommendations made were not based on a consideration of the economic situation of the covered employers as revealed by tangible objective data on their income and expenses. The Report recites the number of acres devoted to agriculture and the percentage devoted to different uses; the total farm value of agricultural production and the percentage derived from sugarcane, tobacco and coffee; the trend and value of sales of livestock products; the area devoted to coffee, employment in the coffee fields, and total coffee production; the trend of tobacco production; the trend and value of pineapple sales; the overall trend of agricultural employment, the results of a survey of a sample of covered employers which ascertained the average straight-time hourly earnings of their covered employees, and finally, the existence of Puerto Rico's Act No. 142 providing for wage supplements for agricultural employees. The totality of the Report's reasoning from this variegated data is that "in view of these

facts and on the basis of the entire record, the Committee finds" that a scale from 58¢ to \$1.10 meets the requirements of §8(b), see, pp. 5-6, *supra*.

The basic defect in the Report is obvious. The Committee's mandate was to ascertain the highest minimum wage that covered employers could meet. That figure is a function of ability to pay and the elasticity of demand for labor. In order to derive that function it is necessary to utilize income and expense data, see, pp. 9-11, *supra*. But at no point in its Report does the Committee advert to such data. To the extent the question of income is touched upon, the income figures for all Puerto Rican farmers are cited. However, only farmers who utilize 500 man-days of hired labor a quarter were to be covered by the Committee's recommendations (A-85 to A-86). Since the Committee did not specify what percentage of total farm income was received by covered farmers, the income figures cited are virtually meaningless. And there is not a word in the Report on the entire matter of expenses. Thus, the Report is utterly bereft of reasoned analysis precisely because the Committee never dealt with the data necessary to justify the conclusion that the minimum wage it set was the highest possible.

The explanation for this defect is not at all difficult to ascertain: the Committee proceeded in the face of the fact that the record did not provide a solid statistical evidentiary base as to the economic situation of the covered employers as a group. The employers admitted that their testimony did not present the tangible objective data required by §511.13 (A-54). And the economic report compiled by the Secretary was similarly uninformative. Its sole contribution was the overall income statistics recited by the Committee, and it was barren of any expense information. Thus the inadequacy of the Committee's Report was foreordained by the inadequacies of the record.

4. The burden of the argument to this point has been that the Act sets the statutory minimum wage as the norm; that downward adjustments, within the parameters set by §8(b), from that norm are permissible if, and only if, they



are justified by economic and competitive considerations; that such a justification must take the form of a demonstration of the limits imposed by the covered employers' ability to pay and their elasticity of demand for labor; that such a demonstration requires the evaluation of the covered employers' income and expense data; that Industry Committee No. 89-A did not, and indeed could not, have considered such data, since the record was all but silent in this critical respect; and that the Committee's recommendations, and the Secretary's Order based thereon, are therefore invalid since the burden of demonstrating that the minimum wage scale set was the highest possible was not satisfied.

Section 10 of the Act empowers the courts "to modify, or set aside [an invalid wage] order in whole or in part." Thus, Congress has granted this Court broad equitable powers to dispense adequate relief, cf., *Wirtz v. Baldor Electric Co.*, 119 U.S. App. D.C. 122, 137-139; 337 F.2d 518, 533-535 (C.A. D.C., 1963). In the instant case adequate relief requires modification of the Order to provide a \$1.30 minimum wage. The only alternative, an order to convene a new industry committee, allows the covered employees no present relief at all. And this relief is justified by, and indeed flows from, the very structure of §8. That Section allows downward adjustments from the statutory norm only where it is proved that a lesser figure is the highest the covered employers can meet. Here that burden of proof was not met. There was not even a serious attempt to come forward with the objective tangible data relating to income and expenses necessary to determine whether such a lesser figure was appropriate. The proper inference from this failure is that such evidence would have been adverse to the claim that the statutory minimum wage should not apply, Wigmore, Evidence § 285 (3d ed., 1940). Thus the course the Committee should have followed was to have recommended the statutory minimum wage. This Court's Decree should require now that which the Act has required from the outset.

**CONCLUSION**

For the above stated reasons the Order sought to be reviewed should be modified to provide for a \$1.30 minimum wage.

Respectfully submitted,

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August 17, 1970



## APPENDIX

Data Pertinent to a Review of Minimum  
Wage Rates Established Under the  
Fair Labor Standards Act in—

**THE CHILDREN'S DRESS AND RELATED  
PRODUCTS INDUSTRY IN PUERTO RICO**

March 1969

UNITED STATES DEPARTMENT OF LABOR

Wage and Hour and Public Contracts Division

(WH69-821)

Table I. Consolidated Profit and Loss Data for Firms in  
the Industry, Years Ended in 1966 and 1967

[Dollar amounts in thousands]

Item	Number of firms reporting		Amount or per cent	
	1966	1967	1966	1967
Net sales	10	13	\$3,253	\$6,246
Operating profit	9	13	335	554
As a percent of sales			10.4%	8.8%
Operating loss	1	---	D	---
Net profit (minus net loss)	10	13	345	547
As a percent of sales			10.6	8.8
Salaries	6	9	124	206
Wages	10	13	1,278	1,803
As a percent of sales			39.3	28.9
Rent	7	9	30	37
As a percent of sales			1.9	.9
Beginning inventory	7	10	105	905
Ending inventory	7	10	103	467
Other income (net)	4	6	1	9

Notes: Percentage calculation made before rounding.

Dash denotes zero.

D denotes confidential information withheld to avoid disclosure.

1 Less than \$500.

Source: WHPC Divisions survey.

Data Pertinent to a Review of Minimum  
Wage Rates Established Under the  
Fair Labor Standards Act in—

**THE HANDKERCHIEF, SCARF AND ART  
LINEN INDUSTRY IN PUERTO RICO**

March 1969

UNITED STATES DEPARTMENT OF LABOR

Wage and Hour and Public Contracts Division

(WH69-976)

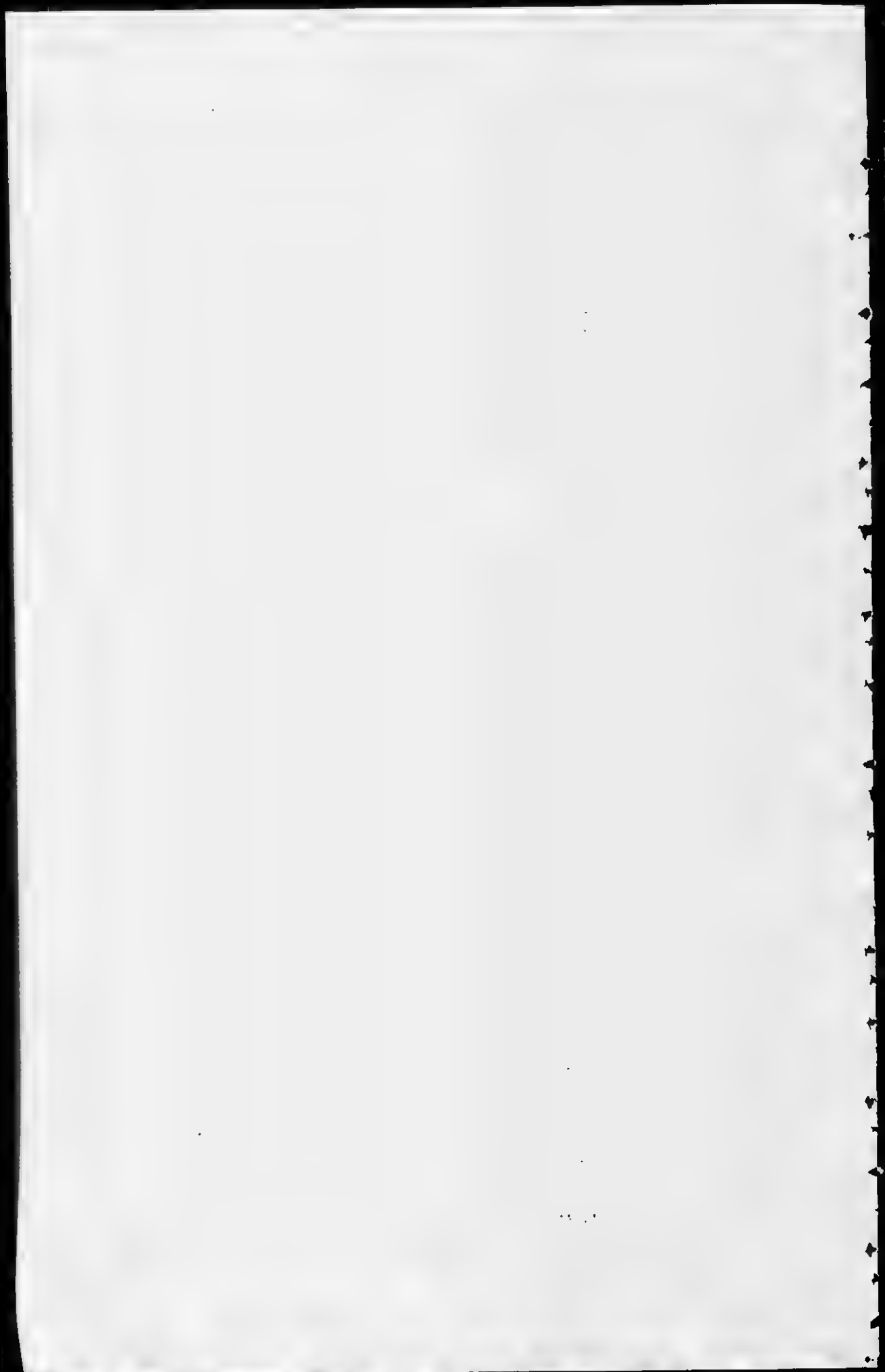
Table II. Consolidated Profit and Loss Data for Firms in  
the Industry, Years Ended in 1965, 1966 and 1967

[Dollar amounts in thousands]

Item	Number of firms reporting			Amount or per cent		
	1965	1966	1967	1965	1966	1967
Net sales	11	11	7	\$1,785	\$1,972	\$1,383
Operating profit	8	10	5	\$ 121	\$ 177	\$ 104
As a percent of sales	8	10	5	7.5	9.0	9.3
Operating loss	3	1	2	\$ 26	\$ 36	\$ 8
As a percent of sales	3	1	2	16.6	0.3	4.7
Net profit (minus net loss)	11	11	7	\$ 100	\$ 185	\$ 90
As a percent of sales	11	11	7	5.6	9.4	6.5
Salaries	9	7	4	\$ 142	\$ 135	\$ 62
Wages	9	8	7	\$ 529	\$ 517	\$ 408
As a percent of sales	9	8	7	32.1	28.6	29.5
Freight-in	4	4	2	\$ 18	\$ 22	\$ 16
As a percent of sales	4	4	2	1.3	1.5	5.0
Freight-out	5	5	1	\$ 21	\$ 26	1
As a percent of sales	5	5	1	1.5	1.8	.2
Rent	5	6	5	\$ 18	\$ 23	\$ 18
As a percent of sales	5	6	5	2.3	1.4	1.5
Beginning inventory	6	6	4	\$ 119	\$ 81	\$ 84
Ending inventory	7	5	4	\$ 82	\$ 148	\$ 50
Other income (net)	4	4	3	\$ 5	\$ 7	\$ 3

1 Less than \$500.

Source: WHPC Divisions survey.



No. 24,057

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

United States Court of Appeals  
for the District of Columbia Circuit

SINDICATO PUERTORRIQUENO DE  
TRABAJADORES, ET AL., PETITIONERS

FILED DEC 31 1970

*Nathan J. Paulson*  
CLERK

v.

JAMES D. HODGSON, SECRETARY  
OF LABOR, ET AL., RESPONDENTS

---

On Petition for Review of a Wage Order  
Issued by the Administrator of the Wage and Hour  
Division of the U. S. Department of Labor

---

BRIEF FOR RESPONDENTS

---

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 24,057

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SINDICATO PUERTORRIQUENO DE  
TRABAJADORES, ET AL., PETITIONERS

v,

JAMES D. HODGSON, SECRETARY  
OF LABOR, ET AL., RESPONDENTS

---

On Petition for Review of a Wage Order  
Issued by the Administrator of the Wage and Hour  
Division of the U. S. Department of Labor

---

BRIEF FOR RESPONDENTS

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COUNTERSTATEMENT OF THE CASE

This class action was brought under Section  
10(a) of the Fair Labor Standards Act<sup>1/</sup> which provides  
for court review of Puerto Rican wage orders issued pur-  
suant to Sections 5 and 8 of the Act. The challenged

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<sup>1/</sup> Act of June 25, 1938, c. 676, 52 Stat. 1060, as  
amended; 29 U.S.C. 201 et seq. The pertinent statutory  
provisions are set forth infra, pp. 2-4, and in the  
Appendix.

wage order establishes increased rates for agricultural workers ranging generally from 58 to 76 cents an hour and up to \$1.10 for certain skilled employees. Petitioners ask the Court to "modify" this order by substituting for the determined rates a uniform rate of \$1.30 an hour.

#### PERTINENT STATUTORY PROVISIONS

The Act's minimum wage and overtime provisions did not apply to agricultural workers until the effective date of the 1966 Fair Labor Standards Amendments, and then the Act's minimum wage protection was extended to certain workers employed in agriculture only in the continental United States. (See Sections 3(e), 3(f), 3(u), 6(a)(5), and 13(a)(6), reprinted infra, pp. A-1, 2, 4, 12, 13.) The Amendments did not establish any wage rates for agricultural workers in Puerto Rico, but left that task to the Secretary of Labor who was directed by Section 6(c)(3) of the Act to "appoint a special industry committee in accordance with Section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by Section 8 \* \* \*." Under that section, the rate or rates recommended by the special industry committee were to become effective "upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1966."

The composition of each committee is governed by Section 5 of the Act, which provides that the Secretary<sup>2/</sup> shall appoint an equal number of members representing the public, employers in the industry, and employees in the industry (Section 5(b)). The committee must be convened at least once every two years until the wage rates have reached the statutory minimum applicable to employees in the continental United States (Section 8(a)). However, the Secretary, "in his discretion, may order an additional review during any such biennial period" (ibid.).

Section 8 of the Act directs the committee to "investigate conditions in the industry" and to "recommend to the Administrator the highest minimum wage rates \* \* \* [not in excess of those applicable to employees on the mainland] which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico \* \* \* a competitive advantage over any industry in the [continental] United States" (Section 8(b)). Once the committee

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<sup>2/</sup> Although the Act vests this responsibility in the Wage and Hour Administrator, Reorganization Plan No. 6, 64 Stat. 1263, transferred all functions under the Act to the Secretary of Labor. The Secretary has delegated most of these functions back to the Administrator. He has retained, however, the authority to initiate industry committee proceedings and to appoint their members. See 29 CFR 511.2 and 511.3.

or a majority of the committee has arrived at its decision (Section 5(c)), the committee must file with the Administrator a report containing its findings and recommendations (Section 8(d)). The Administrator has no authority to either approve or disapprove these recommendations but is required by Section 8(d) to publish them in the Federal Register and to "provide by order that the recommendations contained in such report shall take effect upon the expiration of 15 days after the date of such publication."

Section 10(a) of the Act provides that any person aggrieved by such order may petition an appropriate Court of Appeals for its modification or setting aside. Court review is limited to questions of law, and findings of fact by the industry committee, when supported by substantial evidence, "shall be conclusive."

#### THE WAGE ORDER PROCEEDINGS

Pursuant to the direction in section 6(c)(3), the Secretary appointed a committee in March 1967 to recommend rates for the general agriculture industry in Puerto Rico ( A. 89). This first committee divided the industry into 10 classifications and recommended minimum wage rates ranging from 45 cents an hour for "tobacco" and "other agricultural activities" to 57 cents an hour for "pineapples." These rates went into effect on April 28, 1967 (ibid.). The committee also



recommended a two-cent increase on February 1, 1968, in all but two of the industry classifications. A second committee met in December 1968 and recommended further increases which went into effect on February 1, 1969. These rates were in effect at the time of the instant proceedings and were as follows:

Sugar cane	\$ .65
Coffee	.53
Tobacco	.52
Dairy farms	.70
Pineapples	.65
Tomatoes and peppers	.62
Aviculture	.62
Floriculture	.62
Cattle	.55
Other agricultural activities	.55

The Secretary was not required to convene a third committee until December 1970. See Section 8(a). Nonetheless, on November 1, 1969, the Secretary exercised his discretionary authority and established Industry Committee No. 89-A to conduct an additional review (34 F.R. 17732).<sup>3/</sup> This committee held public hearings in Santurce, Puerto Rico, on December 8, 9, and 10, 1969. The petitioning union, the

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<sup>3/</sup> The Secretary appointed a separate committee, No. 89-B, to investigate conditions in the sugar cane industry.

Sindicato Puertorriqueno de Trabajadores, attended the hearings as a party. It did not, however, introduce any evidence or make any statements concerning economic conditions in the industry or the financial situation of any of the employers for whom its members worked. Its testimony was limited to a general plea for higher wages, and, specifically, for establishment of the \$1.30 minimum applicable to farm workers employed in the continental United States.

The only employer qualifying as a "party"<sup>4/</sup> was the Flores Dairy. It and other employers were represented

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<sup>4/</sup> Although the hearings are not adversary proceedings, they constitute formal rule making, and are therefore conducted in accordance with sections 7 and 8 of the Administrative Procedure Act (60 Stat. 237-244; 5 U.S.C. 551-559; see Attorney General's Manual on the Administrative Procedure Act, 1947, p. 33). Rules governing the conduct of these proceedings were promulgated by the Department and published in 29 CFR 511. Under §511.8, interested persons may participate in the hearings as "parties" and not just as witnesses if they file prehearing statements which satisfy certain requirements designed to elicit information for the committee. Employers who want to qualify must submit certified profit and loss statements and balance sheets (29 CFR 511.13). The advantage of being a party is that the person then has the right to present his case by oral or documentary evidence, to submit rebuttal evidence, and to cross-examine any witnesses. In the instant proceedings, seven employers attempted to qualify as parties but their prehearing statements did not satisfy the Department's regulations (A. 48; see Journal of Proceedings, (A. 25-26)). The representative from the Puerto Rico Farm Bureau explained the dearth of certified profit and loss statements and balance sheets on grounds that most farmers do not have this type of information, that many could not in any event afford certification by an independent public accountant, and that about two-thirds of the farmers have attended school for less than six years (A. 48, 54).

by a witness from the Puerto Rico Farm Bureau, who, after introducing certain general statistics on conditions in the industry, urged that no increase be granted in the then applicable wage rates.

In addition to this rather scant evidence, the committee heard the testimony of an economist employed by the Labor Department's Wage and Hour Division, who had conducted a comprehensive study of the industry, and prepared an economic report entitled "the General Agriculture Industry in Puerto Rico" (A. 77, 171, 195). This report, discussed in more detail infra, pp. 15-21, contains numerous statistical tables which show that agriculture in Puerto Rico is a declining industry -- viz. that its production has dropped substantially, that there are almost no exports, that farmers in several segments of the industry (notably tobacco) are unable to compete with imports from the continental United States and elsewhere, and that the Puerto Rican government has had to engage in a massive program of subsidies and price supports.

The data in this report were corroborated by witnesses from Puerto Rico's Labor and Agriculture Departments, and from the Minimum Wage Board of the Commonwealth of Puerto Rico. These witnesses all testified that the farmers were unable to pay higher wages. The Wage Board had only recently established new minimum wage rates for agriculture, ranging

from 50 to 66 cents an hour for unskilled workers in various segments of the industry. (See Table II, infra, p. 27.) These wages were established after hearings and were based on the employer's "ability to pay" (A. 36-37, 44-45). The Committee also had before it a copy of the Commonwealth's 1969 wage supplement Act for agriculture workers, Law No. 142 (A. 177), which contains a legislative finding that "the economic situation of the agricultural enterprises does not permit the farmers at present to pay wages in an amount equal [to 80 cents an hour]" (id., pp. 178-179).

At the close of the hearing, the Committee met in executive session on the afternoon of December 11, 1969. A motion by one of the labor members that the minimum rates be increased to \$1.30 for all classifications was rejected, as was a motion by one of the employer members that the rates be left unchanged (A. 198-199). Finally, after a number of other motions had likewise been rejected, one of the public members, Dr. Jacob I. Karro, proposed that the industry be reclassified into five segments, with subclassifications for certain skilled workers in dairy farms and pineapples,<sup>5/</sup>

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<sup>5/</sup> These classifications were designed to conform to the five mandatory decrees issued under the Minimum Wage Act of Puerto Rico of 1956 which apply to the general agriculture industry. The decrees relating to "dairy farms" and "pineapples" provide different hourly rates for skilled and unskilled workers (A. 90, 107, 108, 112). See wage table reproduced infra at p. 27.

and that each classification be given rate increases ranging from 3 to 17 cents an hour (and 30 to 40 cents for skilled workers). Both motions were approved by a majority of the committee. (A. 200-209).

These recommendations, together with the committee's findings concerning economic conditions in the industry, were incorporated into a report filed with the Administrator on December 12, 1969. The relatively small rate increases are consistent with the committee's findings that production in the agriculture industry in Puerto Rico has either stagnated or, in several instances, declined sharply. (The facts supporting the committee's findings are set forth in the argument, infra, pp. 16-21.)

According to its findings, the only branches of the industry which had experienced any substantial increase in production were dairy farms and cattle ranches, and the minimum rates for these classifications were increased by 6 and 17 cents an hour -- which represented 8.5 and 30 percent increases over the rates previously in effect.

## ARGUMENT

Petitioners' argument is based on two assumptions: (1) that the Puerto Rican farmers have the burden of proving the maximum wage increase they can absorb, and that in the absence of such proof, they are automatically subjected to the \$1.30 rate applicable to farmers in the continental United States; and (2) that the Court's authority to review wage orders and "modify or set [them] aside in whole or in part" includes the authority to substitute its own judgment concerning appropriate rates for the rates determined by the industry committee. Both of these assumptions are plainly erroneous, being contrary to the statutory scheme and inconsistent with applicable court decisions. In addition, we shall show that the wage order is amply supported by the evidence and should be affirmed.

A. THE ACT'S WAGE ORDER PROVISIONS  
IMPOSE NO BURDEN OF PROOF UPON  
PUERTO RICAN FARMERS, NOR DO THEY  
REQUIRE THAT THE \$1.30 RATE  
AUTOMATICALLY APPLY TO SUCH FARMERS

Nowhere in their brief do petitioners point to any statutory language requiring employers to produce any evidence of any character at an industry committee hearing, or indeed even to appear at such hearing. There is no such language, as the omission indicates.

Nor is there any statutory language which requires that industry committees must base their determinations upon "tangible objective data \* \* \* including pertinent unabridged profit and loss statements and balance sheets for a representative period of years" (br., p. 12). The single statutory requirement is that the committee "investigate conditions in the industry" and recommend to the Secretary "the highest minimum wage rates \* \* \* which \* \* \* will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico \* \* \* a competitive advantage over any industry in the [continental] United States."<sup>6/</sup> The statute does not specify what factors the committee should consider in making this determination. It does, however, contemplate that the committee will permit interested persons to submit such evidence as it may deem necessary or appropriate. See Section 8(b). The statute also contemplates that the Administrator will submit to the committee such data as he may have. See Section 5(d).

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<sup>6/</sup> It was undisputed at the hearing that lower wage rates could not result in any competitive injury to farmers on the mainland since Puerto Rico exports relatively small amounts of its agricultural output to the United States. In point of fact, the evidence showed that Puerto Rico farmers -- particularly in tobacco -- were not able to compete with imports to Puerto Rico from the mainland.



Recognizing the absence of any statutory support, petitioners rely instead on the Secretary's regulations governing the conduct of industry committee hearings (29 C.F.R. 511) which, so they claim, impose upon the employer the burden of coming forward with certified profit and loss statements and balance sheets (br., pp. 11-12). The regulations do not require employers to come forward with any such proof, and this is quite apart from the fact that the regulations cannot of course supersede the statute. The regulations simply provide that employers who wish to participate in industry committee hearings as parties must furnish certain information. But this provision -- far from fixing the issues of "inability to pay" or "inability to adjust to a higher minimum wage rate" (br., pp. 11-12) -- is designed to insure that industry committee hearings will be kept within manageable limits by restricting the number of employer-parties to those who file financial statements.<sup>7/</sup> Similarly, the provision of the regulations which lists "pertinent" data is intended to facilitate the hearing by indicating to would-be participants the type of information which the committee might find useful (29 C.F.R. 511.11). The Secretary, of

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<sup>7/</sup> Contrary to the statement at p. 7 of petitioners' brief, the Labor Department's Regional Attorney did not make the statement attributed to him that the burden of proving inability to pay rested on the employers. What he did was to read from the regulations which, as pointed out supra, do not impose any burden on anyone.

course, has no authority to tell the committee what it should consider or how much weight it should give to particular data or factors.

Petitioners' contrary reading of the regulations is defective on two scores. In the first place, it assumes that employers are always proponents of wage rates below the statutory wage applicable to mainland employers, and that in the absence of proof of inability to pay that rate (here \$1.30 an hour), it automatically goes into effect.<sup>8/</sup> Automatic application of the "mainland" rate, however, would violate the statutory command that there be an affirmative finding that the determined rate "will not curtail employment in the industry" -- which finding of course must be supported by record evidence.

Petitioners' reading of the regulations is further defective because, as even they seem to concede at page 11 of their brief, the ability of any one particular employer to meet the higher rate is not determinative of the wage order's impact upon the industry as a whole. As the Fifth Circuit pointed out in Columbus & G. Ry. v. Adm'r of Wage and Hour Div., 126 F.2d 136, 140, the question in these wage determination proceedings "is not whether any particular member

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<sup>8/</sup> Formal rule-making of the type involved here is not an adversary proceeding. Therefore, there is no proponent, and the requirement of Section 7(c) of the Administrative Procedure Act does not apply. Cf. American Airlines v. Civil Aeronautics Board, 89 U.S. App. D.C. 365, 368, 192 F.2d 417, 420 (1951).

of an industry can absorb and survive the establishment of a wage within the minimum fixed by Congress but whether the industry as a whole, can absorb and survive it without serious resultant curtailment of employment." No one -- and certainly not the Secretary who issued the regulations in question -- ever anticipated that all covered members of an industry would come forward with financial statements at the wage order hearing.<sup>9/</sup> Such statements, moreover, constitute only one source of evidence. The economic condition of an industry can be determined, with as much if not greater accuracy, from a wide variety of statistical information, including for example production figures, average income, average wage rates, and the like -- which was done here.

In short, the regulations do not confer procedural benefits upon employers or employees, but they, like the rules of the Interstate Commerce Commission involved in American Farm Lines v. Black Ball, 397 U.S. 532, 538, "were intended primarily to facilitate the development of relevant information for the [committee's] use" in determining wage rates. For this reason, Vitarelli v. Seaton, 359 U.S. 535, cited by petitioners, is inapposite. In that case, a dismissed government employee was denied the hearing guaranteed him by the government regulations under which he was discharged. Such regulations, as the

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<sup>9/</sup> Indeed, in the two wage orders cited by petitioners as illustrating the fine employer cooperation secured by the Secretary as a result of his regulations, only a handful of employers (10 and 11 respectively) produced financial data as shown by the tables reproduced as appendices to petitioners' brief.

Supreme Court pointed out in American Farm Lines, were intended to confer procedural benefits upon individuals and had to be observed (359 U.S. at 538-539). The Vitarelli decision was similarly distinguished by this Court in National Capital Airlines, Inc. v. C.A.B., 136 U.S. App. D.C. 86, 419 F.2d 668, 676, n. 12 (1969), cert. den. 398 U.S. 908.

B. THE WAGE RATES AND REQUISITE FINDINGS  
ARE AMPLY SUPPORTED BY THE EVIDENCE  
AND THE CHALLENGED ORDER SHOULD,  
THEREFORE, BE AFFIRMED

Petitioners, although objecting to the absence of certified profit and loss statements, make no contention that the available evidence is insufficient to support the committee's findings that the minimum rates recommended in its report were the highest possible rates which would not curtail employment in the General Agriculture Industry in Puerto Rico. For this reason, we are somewhat reluctant to burden the Court with a lengthy discussion of the evidence. On the other hand, since the sufficiency of this evidence is the only question properly before the Court, a short discussion of it seems appropriate.

As pointed out in the Statement, supra, the documentary evidence in the Labor Department's comprehensive economic report and the testimony of government officials having responsibility for the welfare of the Puerto Rican labor force and for members of the agriculture industry, show conclusively that agriculture in Puerto Rico is ailing

to such an extent that it must be subsidized by the local government through wage supplements, price supports, export subsidies, and outright financial grants (A. 95, 96, 98, 190, 191). The economic condition of each branch of the industry is shown in Table I, infra, p. 26, which summarizes comparative production and export figures for the major commodities.

Despite the unhealthy condition of the industry as a whole, the committee found that some increase in wage rates was justified and could be made without substantially curtailing employment (A. 11-12). In this connection, there was evidence that farm income had risen slightly (A. 92) as had average hourly wage earnings (A. 130-146). Accordingly, small increases were made in those branches of the industry where production had either remained constant or declined, resulting in minimum wage rates ranging from 58 to 68 cents an hour. Higher wage rates were determined for the two branches of the industry (dairy and cattle) which showed substantial increases in consumer demand (A. 8, 98, 137, 146). The dairy wage rates are the highest for the industry, ranging from 76 cents for unskilled labor to \$1.10 for skilled. The cattle branch received a 17-cent increase, thus raising the rate from 55 to 72 cents.

More specifically, the pertinent facts relating to each branch of the industry are as follows:

1. Coffee

Coffee exports have declined steadily since 1965. A study of 50 farms employing 556 covered workers during the 1969 planting season showed that 73 percent of these workers earned between 53 and 55 cents an hour ( A. 102, 147-148 ), and that the average hourly earnings during the planting season amounted to 57 cents. Average hourly earnings during the harvesting season were higher because of payment on a piece rate basis. The impact of the committee's recommended 5-cent increase (raising the hourly minimum from 53 to 58 cents) will increase the employer's average hourly wage bill by \$21.64 or 6.7 percent ( A. 160 ). An increase to the rate urged by petitioners would have resulted in raising the employer's average hourly wage bill by \$412.52 or 127.5 percent (ibid.).

2. Tobacco

Farms in this branch of the industry have been unable to compete with tobacco growers both in the continental United States and elsewhere, and have lost a substantial part of their export trade ( A. 60-62, 65 ). Moreover, competition from imports resulted in such sizeable surpluses that it was necessary for the government to reduce the acreage and production of filler tobacco in order to prevent

a market collapse (A. 62, 190). In the first nine months of 1969, however, there was an increased demand for unstemmed tobacco (A. 175), and average hourly earnings amounted to 58 cents; they were somewhat less during the last planting season which was in 1968 (A. 103, 136, 161, 162). The impact of the committee's recommended 6-cent increase (raising the hourly minimum from 52 to 58 cents) will increase the employer's average hourly wage bill by 3.8 per cent (A. 161-162). An increase to the rate urged by petitioners would have resulted in raising the employer's average hourly wage bill by 125.7 percent (ibid.).

### 3. Pineapple

Pineapple production has experienced a recent decline (A. 9, 99, 174). The pineapple farms surveyed in 1969 had 322 covered workers. The average hourly earnings of these workers amounted to 72 cents, but 46.4 percent of them earned less than 68 cents an hour. The impact of the committee's recommended 3-cent increase (raising the minimum hourly rate from 65 to 68 cents) will increase the employer's average hourly wage bill by 1.6 percent (A. 166). An increase to the rate urged by petitioners would have resulted in raising the employer's average hourly wage bill by 125.7 percent (ibid.).



#### 4. Dairy

Dairy production has increased (A. 8, 14, 172).

Wages represented approximately 20 percent of the employer's operating costs (Exh. 14), and the certified profit and loss statement submitted by Flores Dairy showed a loss of \$8,218.31 in 1967-68 and a profit of \$7,739.22 in 1968-69 (ibid.).

Of the 1,789 covered workers surveyed in 1969, 55.5 percent earned the then applicable minimum wage of 70 cents an hour; average hourly earnings were 83 cents (A. 150). The impact of the committee's recommended 6-cent increase (raising the minimum hourly rate from 70 to 76 cents) will increase the employer's average hourly wage bill by \$61.07 or 4.3 percent (A. 164). An increase to the rate urged by petitioner would have resulted in raising the employer's average hourly wage bill by \$842.98 or 58.9 percent (ibid.).

#### 5. Cattle

Demand for livestock products has increased regularly over the past 10 years (A. 8, 14, 192). A survey of 14 farms employing 221 covered workers in 1969 showed average hourly earnings of 79 cents, with only 4.1 percent earning as little as the then applicable minimum of 55 cents an hour (A.156). The bulk of the workers earned from 70 to 72.5 cents an hour (ibid.). The impact of the committee's recommended 17-cent

increase (raising the minimum hourly rate from 55 to 72 cents) will increase the employer's average hourly wage bill by 2.7 percent (A. 170). An increase to the rate urged by petitioners would have resulted in raising the employer's average hourly wage bill by 65.3 percent (ibid.).

6. Tomatoes, Peppers, Aviculture and Floriculture

Tomato and pepper production has declined whereas aviculture has shown steady gains. Other agricultural production has remained relatively constant (A. 100, 104, 117-118, 172-173). Of the 209 covered workers surveyed in 1969, their average hourly earnings were 78 cents, with 45.9 percent of the workers earning the then applicable minimum of 62 cents an hour. The impact of the committee's recommended 4-cent increase (raising the minimum hourly rate from 62 to 66 cents) will increase the employer's average hourly wage bill by 2.4 percent (A. 168). An increase to the rate urged by petitioners would have resulted in raising the employer's average hourly wage bill by 69.7 percent (ibid.).

Not only does the evidence support the wage rates determined by the committee as discussed above, but it also demonstrates affirmatively that the \$1.30 rate urged by petitioners would substantially curtail employment in the industry. In addition to this evidence, the committee had before it a copy of the Commonwealth's 1969 wage supplement act for agriculture workers, Law No. 142 (A. 177 ), which

contains a legislative finding that "the economic situation of the agricultural enterprises does not permit the farmers to pay wages in an amount equal [to 80 cents an hour]" (A. 178-179). This legislative finding fully corroborates the earlier testimony of Puerto Rico's former Secretary of Agriculture before the Senate Subcommittee on Labor that "If the wage rate is fixed at a minimum of \$1.25 per hour, the total agricultural payroll would increase from \$77 million to almost \$170 million," and "[u]nder such economic conditions, there is absolute certainty that agriculture would disappear in Puerto Rico" (Hearings before the Senate Labor Subcommittee on Amendments to the Fair Labor Standards Act, 89th Cong., 2d Sess., 1966, p. 1455).

C. IN ANY EVENT THE REVIEWING COURT  
HAS NO AUTHORITY TO SUBSTITUTE ITS  
JUDGMENT FOR THAT OF THE INDUSTRY  
COMMITTEE'S BY IMPOSING THE HIGHER  
RATES URGED BY PETITIONERS

Even if the challenged wage order were not adequately supported by the evidence, the Court's only authority would be to set the wage order aside pending subsequent administrative proceedings. In this connection, Section 10(a) of the Act expressly states that "review by the court shall be limited to questions of law" (cf. Bonita, Inc. v. Wirtz, 125 U.S. App. D.C. 163, 369 F.2d 208, 212 (1966)). Moreover, as pointed out by the Supreme Court in Security Adm'r v. Quaker Oats Co., 318 U.S. 218, it is well settled that courts -- in reviewing rule making proceedings -- may not "substitute their own judgment for that of the [administrative agency]" (id. at 227), and "[t]hat [the agency's] judgment, if based on substantial evidence of record, and if within statutory and constitutional limitations, is controlling even though the reviewing court might on the same record have arrived at a different conclusion" (id. at 228).

To the same effect are this Court's decisions holding that wage determinations under the Fair Labor Standards Act are "a matter for administrative decision and we are not an administrative tribunal" (National Ass'n. of Wool

Mfrs. v. Fleming, 74 U.S. App. D.C. 223, 122 F.2d 617, 622 (1941); Southern Garment Mfrs. Ass'n. v. Fleming, 74 U.S. App. D.C. 228, 122 F.2d 622, 633 (1941)). See: Opp Cotton Mills v. Administrator, 312 U.S. 126; Addison v. Holly Hill Co., 322 U.S. 607; Red Star Manufacturing Co. v. Grimes, 95 U.S. App. D.C. 244, 221 F.2d 524 (1954).

Petitioners nevertheless contend that the statutory use of the word "modify" confers jurisdiction on the Court to substitute its judgment for that of the industry committee by revising the rates upward to \$1.30 an hour (br. p. 16). The word "modify," however, does not include the power to add to or expand; it means to limit or moderate. Directly in point and controlling here is the Supreme Court's decision in F.P.C. v. Idaho Power Co., 344 U.S. 17. The appellate court there, in reviewing a license granted by the FPC, struck out certain conditions which it held were beyond the Commission's authority to impose. The court did not remand the matter for further consideration by the Commission, but affirmed it as "modified." The Supreme Court reversed, stating in pertinent part as follows (344 U.S. at 20):

When the court decided that the license should issue without the conditions, it usurped an administrative function. There doubtless may be situations where the provision excised from the administrative order is separable from the remaining parts or so minor as to make remand

inappropriate. <sup>10/</sup> But the guiding principle, violated here, is that the function of the reviewing court ends when an error of law is laid bare.

"[I]t is true," said the Court, that the reviewing court "has power 'to affirm, modify, or set aside' the order of the Commission 'in whole or in part.' \* \* \* But that authority is not power to exercise an essentially administrative function" (344 U.S. at 21). The same principle is applicable here, and the effect of any successful attack upon a wage order is not the imposition of new rates judicially determined, but a decision setting the order aside and restoring the status quo. See Wirtz v. Baldor Electric Company, 119 U.S. App. D.C. 122, 337 F.2d 518 (1964); Bonita, Inc., supra, 125 U.S. 163, 369 F.2d 208 (1966).<sup>11/</sup>

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<sup>10/</sup> Other type errors which might be corrected by "modification" would include legal mistakes not affecting the substantive judgment of the administrative agency -- such as making the wage rates effective a month earlier than the statute permits, or raising the wage rates to a figure in excess of the rate fixed by statute.

<sup>11/</sup> In response to petitioners' contention that unless wage rates are increased by judicial fiat they will be left without a remedy, it should be noted that the Secretary was not required to appoint a wage committee for this industry until December 1970, and that if he had not exercised his discretionary authority in this regard, petitioners would still be operating under the lower rates superseded by the challenged order and would not now be before this Court.

CONCLUSION

The wage order should be affirmed.

Respectfully submitted.

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DECEMBER 1970



## PRODUCTION IN PUERTO RICO

SHIPMENTS TO UNITED STATES  
QUANTITY (IN POUNDS) AND VALUE

Commodity	Quantity			Value			SHIPMENTS TO UNITED STATES QUANTITY (IN POUNDS) AND VALUE		
	1966-1967	1967-1968	1968-1969	1966-1967	1967-1968	1968-1969	1967	1968	1st 9 Mos. of 1969
Coffee	234,000 cwt	325,000 cwt	260,000 cwt	\$19,062,000	\$21,745,000	\$17,371,000	1,015,000 \$ 457,000	1,808,000 \$ 624,000	1,005,000 \$ 358,000
Tobacco	124,000 cwt	112,000 cwt	80,000 cwt	\$ 3,862,000	\$ 3,753,000	\$ 2,456,000	14,043,000 \$10,564,000	4,718,000 \$3,282,000	4,003,000 \$2,700,000
Pineapple	72,000 tons	65,000 tons	55,000 tons	\$ 3,774,000	\$ 3,516,000	\$ 2,970,000	Fresh 37,590,000 \$2,264,000	41,817,000 \$2,556,000	35,516,000 \$2,043,000
Milk (quarts)	369,883,000	381,056,000	385,437,000	\$58,571,000	\$65,215,000	\$69,279,000	Canned 10,493,000 \$1,346,000	6,838,000 \$1,030,000	4,593,000 \$1,845,000
Cattle	447,000 cwt	423,000 cwt	398,000 cwt	\$19,369,000	\$18,639,000	\$19,086,000	Canned Juice 43,000 gal. \$22,000	56,000 gal. \$30,000	37,000 ga \$27,000
Poultry	245,000 cwt	251,000 cwt	254,000 cwt	\$11,151,000	\$11,531,000	\$11,663,000	Cheese & Curd 282,000 \$158,000	361,000 \$198,000	193,000 \$108,000
Tomatoes, Peppers, Floriculture and other	As quantities are reported in different denominations, such as tons, hundredweights, etc., they are not susceptible to summarization.			\$37,827,000	\$42,768,000	\$49,430,000	Other dairy products & eggs Under 500 \$24,000	Under 500 \$436,000	Unreported \$ 6,000

1/ Includes shipments of poultry. Source: A. 13, 115, 124, 172-175

TABLE II

Commodity	FLSA Wage Order Effective 2/1/68	FLSA Wage Order Effective 2/1/69	Rates Under 1956 Minimum Wage Act of Puerto Rico <sup>1</sup> / Effective 4/3/67	Wage Order Recommended by Industry Committee No. 89- Effective 2/1/70
Fee	\$ .50	\$ .53	\$1.00 per almod <sup>2</sup> / piece rate .50 per hour	\$ .58
Acco	\$ .47	\$ .52	Effective 5/28/69 Piece rate, Stringing \$.015 per lath Other \$.55 per hour	\$ .58
ay Farms	\$ .57	\$ .70	Effective 8/31/68 Drivers, Skilled Workers \$1.10 Tractor Operators \$1.05 Other \$.65	\$1.10 \$1.05 .76
apples	\$ .59	\$ .65	Effective 7/7/69 Skilled Workers \$.95 Other \$.66	\$ .95 \$.68
atoes and ppers	\$ .57	\$ .62	Effective 5/28/69 \$.60	\$ .66
ulture	\$ .57	\$ .62	Effective 7/7/69 \$.65	\$ .66
iculture	\$ .55	\$ .62	Effective 7/7/69 \$.63	\$ .66
le	\$ .50	\$ .55	Effective 8/31/68 \$.65	\$ .72
Other gricultural activities	\$ .47	\$ .55	Effective 7/7/69 \$.57	\$ .58

This Act applies to both local and interstate activities.

An almod is a measure of capacity equal to 20 liters or 18.16 quarts.  
Source: A. 89, 108, 112-113.

## A P P E N D I X

### PERTINENT STATUTORY PROVISIONS

The pertinent provisions of the Fair Labor Standards Act, 29 U.S.C. 201 et seq., are as follows:

#### [DEFINITIONS]

SEC. 3. As used in this Act --

\* \* \*

(e) "Employee" includes any individual employed by an employer, except that such term shall not, for the purposes of section 3(u) include--

(1) any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family, or

(2) any individual who is employed by an employer engaged in agriculture if such individual (A) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year.

(f) "Agriculture" includes farming in all its branches and among other things

includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

\* \* \*

(u) "Man-day" means any day during which an employee performs any agricultural labor for not less than one hour.

[SPECIAL INDUSTRY COMMITTEES  
FOR PUERTO RICO AND THE VIRGIN ISLANDS]

SEC. 5. (a) The Administrator [now the Secretary by virtue of Reorganization Plan No. 6 of 1950] shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce or employed in any enterprise engaged in commerce or in the production of goods for commerce, or the [Secretary] may appoint separate industry committees to recommend the minimum rate or rates of wages to be paid under section 6 to employees therein engaged in commerce

or in the production of goods for commerce or employed in any enterprise engaged in commerce or in the production of goods for commerce in particular industries. An industry committee appointed under this subsection shall be composed of residents of such island or islands where the employees with respect to whom such committee was appointed are employed and residents of the United States outside of Puerto Rico and the Virgin Islands. In determining the minimum rate or rates of wages to be paid, and in determining classifications, such industry committees shall be subject to the provisions of section 8.

(b) An industry committee shall be appointed by the [Secretary] without regard to any other provisions of law regarding the appointment and compensation of employees of the United States. It shall include a number of disinterested persons representing the public, one of whom the [Secretary] shall designate as chairman, a like number of persons representing employees in the industry, and a like number representing employers in the industry. In the appointment of the persons representing each group, the [Secretary] shall give due regard to the geographical regions in which the industry is carried on.

(c) Two-thirds of the members of an industry committee shall constitute a quorum, and the decision of the committee shall require a vote of not less than a majority of all its members. Members of an industry committee shall receive as

compensation, for their services a reasonable per diem, which the [Secretary] shall by rules and regulations prescribe, for each day actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and other expenses. The [Secretary] shall furnish the committee with adequate legal, stenographic, clerical, and other assistance, and shall by rules and regulations prescribe the procedures to be followed by the committee.

(d) The [Secretary] shall submit to an industry committee from time to time such data as he may have available on the matters referred to it, and shall cause to be brought before it in connection with such matters any witnesses whom he deems material. An industry committee may summon other witnesses or call upon the [Secretary] to furnish additional information to aid it in its deliberations.

#### [MINIMUM WAGES]

SEC. 6. (a) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

\* \* \*

(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter.

\* \* \*



(c)(1) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5.

(2) In the case of any such employee who is covered by such a wage order to whom the rate or rates prescribed by subsection (a) would otherwise apply, the following rates shall apply:

(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, increased by 12 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1966 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

(B) Beginning one year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).



(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1966 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages

they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

(3) In the case of any such employee to whom subsection (a)(5) or subsection (b) would otherwise apply, the Secretary shall within sixty days after the effective date of the Fair Labor Standards Amendments of 1966 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, but not in excess of the applicable rate provided by subsection (a)(5) or subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (a)(5) or subsection (b), as the case may be. The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1966.

(4) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for

so long as an insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.

\* \* \*

[WAGE ORDERS IN PUERTO  
RICO AND THE VIRGIN ISLANDS]

SEC. 8. (a) The policy of this Act with respect to industries or enterprises in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed in paragraph (1) of section 6(a) in each such industry. The [Secretary of Labor] shall from time to time convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee shall from time to time recommend the minimum rate or rates of wages to be paid under section 6 by employers in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce in any such industry or classifications therein. Minimum rates of wages established in accordance with this section which are not equal to the minimum wage rate prescribed in paragraph (1) of section 6(a) shall be reviewed by such a Committee once during each biennial period, beginning with the biennial period commencing July 1, 1958, except that the Secretary, in his discretion, may order an additional review during any such biennial period.

(b) Upon the convening of any such industry committee, the [Secretary] shall refer to it the question of the minimum wage rate or rates to be fixed for such industry. The industry committee shall investigate conditions in the industry and the committee, or any authorized subcommittee thereof, shall after due notice hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under this Act. The committee shall recommend to the [Secretary] the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico or in the Virgin Islands a competitive advantage over any industry in the United States outside of Puerto Rico and the Virgin Islands.

(c) The industry committee shall recommend such reasonable classifications within any industry as it determines to be necessary for the purpose of fixing for each classification within such industry the highest minimum wage rate (not in excess of that prescribed in paragraph (1) of section 6(a)) which (1) will not substantially curtail employment in such classification and (2) will not give a competitive advantage to any group in the industry, and shall recommend for each classification in the industry the highest minimum wage rate which the committee determines will not substantially curtail employment in such classification. In determining whether such classifications should be made in any industry, in making such classifications, and in determining the minimum wage rates for such classifications, no classifications shall be made, and no minimum wage rate shall be fixed, solely on a regional basis, but the industry committee shall consider among other relevant factors the following:

(1) competitive conditions as affected by transportation, living, and production costs;

(2) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(3) the wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

No classification shall be made under this section on the basis of age or sex.

(d) The industry committee shall file with the Secretary a report containing its findings of fact and recommendations with respect to the matters referred to it. Upon the filing of such report, the Secretary shall publish such recommendations in the Federal Register and shall provide by order that the recommendations contained in such report shall take effect upon the expiration of 15 days after the date of such publication.

(e) Orders issued under this section shall define the industries and classifications therein to which they are to apply, and shall contain such terms and conditions as the [Secretary] finds necessary to carry out the purposes of such orders, to prevent the circumvention or evasion thereof, and to safeguard the minimum wage rates established therein.

(f) Due notice of any hearing provided for in this section shall be given by publication in the Federal Register and by such other means as the [Secretary] deems reasonably calculated to give general notice to interested persons.

\* \* \*

## [COURT REVIEW]

SEC. 10. (a) Any person aggrieved by an order of the Secretary issued under section 8 may obtain a review of such order in the United States Court of Appeals for any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within 60 days after the entry of such order a written petition praying that the order of the Secretary be modified or set aside in whole or in part. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record of the industry committee upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part, so far as it is applicable to the petitioner. The review by the court shall be limited to questions of law, and findings of fact by such industry committee when supported by substantial evidence shall be conclusive. No objection to the order of the Secretary shall be considered by the court unless such objection shall have been urged before such industry committee or unless there were reasonable grounds for failure so to do. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceeding and that there were reasonable grounds for failure to adduce such evidence in the proceedings before such industry committee, the court may order such additional evidence to be taken before an industry committee and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. Such industry committee may modify the initial findings by reason of the additional evidence so taken, and shall file with the court such



modified or new findings which if supported by substantial evidence shall be conclusive, and shall also file its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court shall be final subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

\* \* \* \*

[EXEMPTIONS]

SEC. 13. (a) The provisions of sections 6 and 7 shall not apply with respect to --

\* \* \*

(6) any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor, (B) if such employee is the parent, spouse, child, or other member of his employer's immediate family, (C) if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calendar year, (D) if such employee (other than an employee described in clause (C) of this subsection) (i) is sixteen years of age or under and is employed as a hand harvest laborer, is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment,



(ii) is employed on the same farm as his parent or person standing in the place of his parent, and (iii) is paid at the same piece rate as employees over age sixteen are paid on the same farm, or (E) if such employee is principally engaged in the range production of livestock; \* \* \*.

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**United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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**SINDICATO PUERTORRIQUENO DE  
TRABAJADORES, et al.,**

*Petitioners,*

*v.*

**JAMES D. HODGSON, SECRETARY  
OF LABOR, et al.,**

*Respondents.*

---

**ON PETITION TO REVIEW A MINIMUM WAGE  
ORDER ISSUED UNDER THE  
FAIR LABOR STANDARDS ACT**

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**REPLY BRIEF FOR THE PETITIONERS**

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United States Court of Appeals  
District of Columbia

FILED 1950

9/10/50

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**United States Court of Appeals  
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**No. 24,057**

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**REPLY BRIEF FOR THE PETITIONERS**

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In form the Government's Brief is a straightforward reply to our Brief. In fact, however, it is a skillful attempt to avoid answering our contentions by ignoring and/or distorting the claims of error developed therein.

1. The thesis of the Government's opening argument (Gov. Br. 10-12) is that "recognizing the absence of any statutory support, petitioners rely instead on the Secretary's regulations governing the conduct of industry committee hearings." This is a plain misstatement of the position set out in our Brief. As

we have insisted from the outset<sup>1</sup> it is *the Act* which both sets \$1.30 as the norm, and requires that any downward adjustment from that norm be justified by a demonstration, grounded in the covered employers' gross income, profit and loss, and labor expense statistics, that economic and competitive necessity precludes the payment of a higher wage. Pursuant to this statutory scheme the function of industry committees is to make periodic determinations as to whether a group of employers is to be relieved of the obligation to pay the basic minimum. And a determination allowing this relief is proper only where the burden of justifying the necessity of a wage rate less than \$1.30 has been met. Absent a sufficient showing the Act requires the industry committees in the first instance, or a reviewing court, to deny such relief by mandating the rate set by Congress. Thus, our position is not based on a mere "assumption . . . that Puerto Rican farmers have the burden of proving the maximum wage increase they can absorb, and that in the absence of such proof they are automatically subjected to the \$1.30 rate . . ." (Gov. Br. 10). It is based on the statute itself which required the Committee to set the statutory norm in the absence of evidence justifying a downward adjustment.

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<sup>1</sup> "Section 8 [of the Act] recognizes the statutory minimum wage set in §§ 6(a) and 6(b) as the basic norm. The industry committee procedure provides for downward adjustments from that norm in Puerto Rico to the extent required by economic and competitive necessity. In the absence of a showing of such necessity § 8(a) makes it plain that the statutory minimum is to apply . . .

"In light of the policy enunciated in § 8(a), and the plain language of § 8(b), establishment of a minimum wage less than that set in §§ 6(a) and 6(b) must be based on a demonstration that no higher figure would be justified. As a matter of economic theory, as well as common sense, detailed statements of the economic situation of the covered employers as a group over a period of time, with special emphasis on gross income and expense figures are a necessary, though not sufficient, condition to such a demonstration. For the 'highest minimum wage . . . which will not substantially curtail employment' is the function of the covered employers' ability to pay and of the elasticity of their demand for labor." (Pet. Br. 9).

It is well settled that the courts "show great deference to the interpretation given the statute by the officers or agency charged with its administration," *Udall v. Tallman*, 380 U.S. 1, 16 (1965). While our reliance is on the Act, we did, therefore, refer to 29 C.F.R. 511.11 and 511.13 to demonstrate that the "Secretary, in promulgating his regulations under § 5(c), has recognized the central importance of adequate income and expense data in industry committee proceedings," (Pet. Br. 11). For it is obviously of great significance that the Secretary in fulfilling his obligation to administer the Act has squarely recognized that, in light of their statutory responsibility, industry committees are to focus on tangible objective evidence concerning the covered employers' economic situation. The Government does not attempt to answer the limited point thus made—that these regulations do support our construction of the Act. Indeed, in light of the language of the regulations, it could not do so. Instead, it devotes a substantial portion of its Brief (Gov. Br. 12-15) to the proposition that the failure to follow these regulations in the instant case was harmless error under *American Farm Lines v. Black Ball*, 397 U.S. 532, 538 (1969), and *National Capital Airlines v. CAB*, — U.S. App. D.C. —, 419 F.2d 668, 676 n. 12 (C.A. D.C., 1969). This contention is both erroneous<sup>2</sup> and beside the point. As just noted, our case is not bottomed on the failure to follow the regulations; it is based on the failure to comply with the Act's requirements, which are recog-

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<sup>2</sup> *American Farm Lines* and *National Capital Airlines* simply establish a limited exception to the principle of *Vitarelli v. Seaton*, 359 U.S. 535, 539-540 (1959) designed to permit a measure of play in the joints of the administrative process by recognizing a doctrine of substantial agency compliance which excuses non-prejudicial departures from regulations, see, 397 U.S. at 539 (relaxation of procedural rules permitted when "the ends of justice require it"); 419 F.2d at 676 ("None of the alleged errors prejudiced National Capital"). In the instant case the failure to require the evidentiary showing called for by the Secretary's regulations was prejudicial. The decision to set wage rates less than \$1.30 an hour in the absence of the requisite proof necessary to justify this downward adjustment was the very essence of the matter. And, as opposed to *American Farm Lines*, see, 397 U.S. at 537-538, no other evidence was introduced to compensate for this failure.



nized in, and elucidated by, 29 CFR 511.11 and 511.13. Thus the elaborate demonstration based on *American Farm Lines* and *National Capital Airlines* provides no refuge here. For those cases do nothing to undercut the fact that the regulations in question reflect the considered position of the Secretary and are therefore germane in construing the Statute.

In its only direct attempt to deal with, rather than avoid, the Act and its implications the Government argues (Gov. Br. 11) that the Statute does not set out in *haec verba* the type and quantum of proof necessary to satisfy the burden of justifying a rate of less than \$1.30. But this does not, as the Government would have it, lead to the conclusion that industry committees have been left at large. The Act requires that they recommend "the highest minimum wage . . . [which] will not substantially curtail employment," § 8(b). That wage is a function of the covered employers' ability to pay and of the elasticity of their demand for labor. As a matter of basic economic logic the first of these factors cannot be derived without a detailed picture of the covered employers' economic situation (Pet. Br. 9-11). Since a committee exceeds its authority if it decrees a rate of less than \$1.30 which is not justified by a showing that the covered employers are unable to pay the statutory minimum, the Act does require that the data not consulted here be considered.

The foregoing points up the fallacy in the assertion (Gov. Br. 14) that industry committees may proceed in the absence of objective data bearing on the covered employers' ability to pay since:

"the economic condition of an industry can be determined, with as much if not greater accuracy, from a wide variety of statistical information, including for example production figures, average income, average wage rates, and the like—which was done here."

The function of industry committees is to determine whether the \$1.30 rate, or a lesser minimum wage, is to apply to certain covered employers and their employees, not to issue an overall report on the health of an entire industry. Thus the fact that the wide variety of information before the Committee may well have been sufficient

to provide some generalized insights into Puerto Rican agriculture is of no aid in defending the Report in question. The validity of the conclusions reached in that Report turn, in the first instance, on the accuracy of the Committee's determination as to what the covered employers could afford to pay. And the Government never comes to grips with the point that the Committee did not address itself to that issue, and indeed could not have done so since it lacked the requisite data. The critical point is that with the exception of the conclusionary statement just quoted neither the Government nor the Committee even attempts to develop a theory which would explain how the Committee's conclusions follow from the evidence before it.

2. The starting point of the second major subdivision of the Government's Brief (Gov. Br. 15-16) is that "petitioners, although objecting to the absence of certified profit and loss statements, make no contention that the available evidence is insufficient to support the committee's findings." This is incorrect. We are at a loss to understand how we could have stated in clearer terms than those utilized<sup>3</sup> that the Committee's findings lacked probative

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<sup>3</sup> "The Committee's mandate was to ascertain the highest minimum wage that covered employers could meet. That figure is a function of ability to pay and the elasticity of demand for labor. In order to derive that function it is necessary to utilize income and expense data . . . But at no point in its Report does the Committee advert to such data. To the extent the question of income is touched upon, the income figures for all Puerto Rican farmers are cited. However, only farmers who utilize 500 man-days of hired labor a quarter were to be covered by the Committee's recommendations (Ex. 6, 2-3). Since the Committee did not specify what percentage of total farm income was received by covered farmers, the income figures cited are virtually meaningless. And there is not a word in the Report on the entire matter of expenses. Thus, the Report is utterly bereft of reasoned analysis precisely because the Committee never dealt with the data necessary to justify the conclusion that the minimum wage it set was the highest possible.

"The explanation for this defect is not at all difficult to ascertain: the Committee proceeded in the face of the fact that the record did not provide a solid statistical evidentiary base as to the economic situation of the covered employers as a group." (Pet. Br. 15).

support. Our reasoning in this regard is set out in full at pp. 9-11, 14-15 of our Brief. And as just demonstrated, pp. 4-5, *supra*, that reasoning stands unimpeached.

Having failed to meet the thrust of our critique of the Committee's Report, the Government attempts to sidestep it by restating the Committee's position at length (Gov. Br. 15-21) without acknowledging that the underlying data referred to is defective. This restatement is preceded by the assertion: "documentary evidence . . . shows conclusively that agriculture in Puerto Rico is ailing." (Gov. Br. 15-16). Quite aside from the fact that this is an incorrect formulation of the issue, see, pp. 4-5, *supra*, there is no such documentary evidence. There is only a collection of conclusionary statements and incomplete and basically irrelevant information. The Committee Chairman, Professor Eisenberg, a trained economist, properly stated in his dissent:

"The record before us contains virtually no valid data on the financial condition of the industry, and certainly no data which could show that substantial increases in Federal wage minima would have an adverse impact on the industry and its workers." (A-21).

For as we have emphasized (Pet. Br. 14-15), the facts set out by the Committee (A-8 to A-11), and again in the Government's Brief, are simply insufficient to show that the covered employers, who are the substantial factors in the industry, as opposed to all Puerto Rican farmers, are unable to pay the statutory norm. Indeed, the *lacunae* in the Government's Brief, not the least of which is a failure to respond to our arguments and to develop a theory demonstrating that the specific findings the Committee was required to make can be supported by the evidence, serve to demonstrate that the record here provides no objective data at all to support the Committee's conclusion that the wages it set, rather than the \$1.30 norm, were the highest possible.

3. The final point made by the Government (Gov. Br. 23-24) is that the courts' authority to "modify" invalid

wage orders, granted by § 10(a) of the Act, "does not include the power to add or to expand; it means to limit or moderate." The thrust of this argument, which is made out of whole cloth, is that a reviewing court may decree a wage less than that set by an industry committee, such action being "to limit or moderate," but not a higher figure. If this were the law the right of judicial review granted by the Act would be rendered nugatory for parties aggrieved by an erroneous downward adjustment. Under the Government's formulation their successful challenge would simply lead to a remand and would afford them no present relief at all. Moreover, the limitation on judicial power advocated would encourage refusals by employers, the only parties with the necessary data at hand, to supply necessary gross income, profit and loss, and labor cost statistics to the Secretary and to industry committees. For the instant case demonstrates that employers profit from this course at the administrative level, and the Government's position would immunize them from the effective judicial response to such a course inherent in the statutory scheme.

Contrary to the Government (Gov. Br. 23-24) these absurd practical consequences are not required, or even suggested, by *FPC v. Idaho Power Co.*, 344 U.S. 17 (1952). As *Idaho Power* and the other cited cases indicate, it is familiar doctrine, to which we take no exception, that there are "essentially administrative functions," 344 U.S. at 21, as to which the courts are not to "substitute their own judgments for that of the" administrator, *Security Administrator v. Quaker Oats Co.*, 318 U.S. 218, 227 (1943). This does not mean that in all situations "the function of the reviewing court ends when an error of law is laid bare," *Idaho Power*, 344 U.S. at 20. Where an agency incorrectly decides a question of law which admits of a yes or no answer the courts are not required to remand for a redetermination, see, e.g., *Volkswagenwerk v. FMC*, 390 U.S. 261, 268-277 (1968). And at the risk of excessive repetition our position here is that where the burden of justifying a downward adjustment from the statutory norm is not met the Act requires the industry committee



in the first instance, or the reviewing court, to apply the \$1.30 rate set by Congress. Thus, in the instant case, we are not in the area of agency discretion; the modification of the Order sought here follows as a matter of law from the invalidity inherent in the decision below. It is therefore within the judicial province to grant that modification.

As a last ditch effort to preclude effective relief it is suggested that:

“the Secretary was not required to appoint a wage committee for this industry until December 1970, and . . . if he had not exercised his discretionary authority in this regard, petitioners would still be operating under the lower rates superseded by the challenged order and would not now be before this Court.” (Gov. Br. 24 n. 11).

This suggestion completes the demonstration, assuming *arguendo* that any doubt remained, compare, p. 3 n. 2, *supra*, that the Government completely misunderstands the limitation on arbitrary administrative action established by *Vitarelli*, 359 U.S. at 539-540:

“It is true that the Act of August 26, 1950, and the Executive Order did not alter the power of the Secretary to discharge summarily an employee in petitioner's status, without the giving of any reason. Nor did the Department's own regulations preclude such a course. Since, however, the Secretary gratuitously decided to give a reason, and that reason was national security, he was obligated to conform to the procedural standards he had formulated in Order No. 2738 for the dismissal of employees on security grounds. *Service v. Dulles*, 354 US 363 . . . Having chosen to proceed against petitioner on security grounds, the Secretary here, as in *Service*, was bound by the regulations which he himself had promulgated for dealing with such cases, even though without such regulations he could have discharged petitioner summarily.”

In short, once the decision to invoke the procedures of the Act was made there was no choice other than to proceed in conformity with the Statute. Moreover, the Government's suggestion is seriously misleading. It is our understand-

ing that since there was a determination in 1969, the 1970 hearing, which would otherwise have been required, will not be held. Thus the effect of the erroneous determination at issue here is not limited to the period when "the petitioners would still be operating under the lower rates" established in 1968. Unless this Court acts that determination will not expire of its own force until December, 1971.

### CONCLUSION

For the above stated reasons, as well as those developed in Petitioners' opening brief, the Order sought to be reviewed should be modified to provide for a \$1.30 minimum wage.

Respectfully submitted,

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December 14, 1970